

Chapter 173-400 WAC
GENERAL REGULATIONS FOR AIR POLLUTION
SOURCES

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WAC

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**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

173-400-080	Compliance schedules. [Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-080, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-080, filed 5/8/79; Order DE 76-38, § 173-400-080, filed 12/21/76. Formerly WAC 18-04-080.] Repealed by 83-09-036 (Order DE 83-13), filed
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	4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-090	Sensitive area designation. [Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-090, filed 8/20/80; Order DE 76-38, § 173-400-090, filed 12/21/76. Formerly WAC 18-04-090.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-130	Regulatory actions. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-130, filed 5/8/79; Order DE 76-38, § 173-400-130, filed 12/21/76. Formerly WAC 18-04-130.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-135	Criminal penalties. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-135, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-140	Appeals. [Order DE 76-38, § 173-400-140, filed 12/21/76. Formerly WAC 18-04-140.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-141	Prevention of significant deterioration (PSD). [Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-141, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-141, filed 9/13/96, effective 10/14/96; 93-18-007 (Order 93-03), § 173-400-141, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-141, filed 2/19/91, effective 3/22/91.] Repealed by 05-03-033 (Order 03-07), filed 1/10/05, effective 2/10/05. Statutory Authority: RCW 70.94.152.
173-400-150	Variance. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-150, filed 5/8/79; Order DE 76-38, § 173-400-150, filed 12/21/76. Formerly WAC 18-04-150.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-160	Maintenance of pay. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-160, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
173-400-170	Requirements for boards and director. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-170, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

WAC 173-400-010 Policy and purpose. (1) It is the policy of the department of ecology (ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and for the proper development of the state's natural resources.

(2) It is the purpose of this chapter to establish technically feasible and reasonably attainable standards and to establish rules generally applicable to the control and/or prevention of the emission of air contaminants.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-010, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-010, filed 4/15/83; Order DE 76-38, § 173-400-010, filed 12/21/76. Formerly WAC 18-04-010.]

WAC 173-400-020 Applicability. (1) The provisions of this chapter shall apply statewide.

(2) An authority may enforce this chapter and may also adopt standards or requirements. These standards or requirements may not be less stringent than the current state air quality rules and may be more stringent than the current regulations. Unless properly delegated by ecology, authorities do not have jurisdiction over the following sources:

(a) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.

(b) Automobiles, trucks, aircraft.

(c) Those sources under the jurisdiction of the energy facility site evaluation council.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-020, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-020, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-020, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-020, filed 5/8/79; Order DE 76-38, § 173-400-020, filed 12/21/76. Formerly WAC 18-04-020.]

WAC 173-400-030 Definitions. Except as provided elsewhere in this chapter, the following definitions apply throughout the chapter:

(1) **"Actual emissions"** means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or an authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

(c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

(2) **"Adverse impact on visibility"** is defined in WAC 173-400-117.

(3) **"Air contaminant"** means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(4) **"Air pollution"** means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(5) **"Allowable emissions"** means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or

both) and the most stringent of the following:

(a) The applicable standards as in 40 CFR Part 60, 61, 62, or 63;

(b) Any applicable SIP emissions limitation including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable approval condition, including those with a future compliance date.

(6) **"Ambient air"** means the surrounding outside air.

(7) **"Ambient air quality standard"** means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

(8) **"Approval order"** is defined in **"order of approval."**

(9) **"Attainment area"** means a geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard for a given criteria pollutant.

(10) **"Authority"** means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(11) **"Begin actual construction"** means, in general, initiation of physical on-site construction activities on an emission unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(12) **"Best available control technology (BACT)"** means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(13) **"Best available retrofit technology (BART)"** means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration

the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(14) **"Bubble"** means a set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70.94.155 and WAC 173-400-120.

(15) **"Capacity factor"** means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(16) **"Class I area"** means any area designated under section 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park;
- (h) Pasayten Wilderness; and
- (i) Spokane Indian Reservation.

(17) **"Combustion and incineration units"** means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes outdoor burning.

(18)(a) **"Commence"** as applied to construction, means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(b) For the purposes of this definition, "necessary preconstruction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the SIP.

(19) **"Concealment"** means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(20) **"Criteria pollutant"** means a pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O₃) sulfur dioxide (SO₂), lead (Pb),

and nitrogen dioxide (NO₂).

(21) **"Director"** means director of the Washington state department of ecology or duly authorized representative.

(22) **"Dispersion technique"** means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

(23) **"Ecology"** means the Washington state department of ecology.

(24) **"Emission"** means a release of air contaminants into the ambient air.

(25) **"Emission reduction credit (ERC)"** means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

(26) **"Emission standard"** and **"emission limitation"** means a requirement established under the Federal Clean Air Act or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the Federal Clean Air Act or chapter 70.94 RCW.

(27) **"Emission threshold"** means an emission of a listed air contaminant at or above the following rates:

Air Contaminant	Annual Emission Rate
Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter (PM):	25 tpy of PM emissions 15 tpy of PM-10 emissions
Volatile organic compounds:	40 tpy
Fluorides:	3 tpy
Lead:	0.6 tpy
Sulfuric acid mist:	7 tpy
Hydrogen sulfide (H ₂ S):	10 tpy
Total reduced sulfur (including H ₂ S):	10 tpy
Reduced sulfur compounds (including H ₂ S):	10 tpy

(28) **"Emissions unit"** or **"emission unit"** means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the Federal Clean Air Act, chapter 70.94 or 70.98 RCW.

(29) **"Excess emissions"** means emissions of an air pollutant in excess of any applicable emission standard.

(30) **"Excess stack height"** means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).

(31) **"Existing stationary facility (FACILITY)"** is defined in

WAC 173-400-151.

(32) **"Federal Clean Air Act (FCAA)"** means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

(33) **"Federal Class I area"** means any federal land that is classified or reclassified Class I. The following areas are federal Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness.

(34) **"Federal land manager"** means the secretary of the department with authority over federal lands in the United States. This includes, but is not limited to, the U.S. Department of the Interior - National Park Service, the U.S. Department of the Interior - U.S. Fish and Wildlife Service, the U.S. Department of Agriculture - Forest Service, and/or the U.S. Department of the Interior - Bureau of Land Management.

(35) **"Federally enforceable"** means all limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, 62 and 63, requirements established within the Washington SIP, requirements within any approval or order established under 40 CFR 52.21 or under a SIP approved new source review regulation, and emissions limitation orders issued under WAC 173-400-091.

(36) **"Fossil fuel-fired steam generator"** means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(37) **"Fugitive dust"** means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

(38) **"Fugitive emissions"** means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(39) **"General process unit"** means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

(40) **"Good engineering practice (GEP)"** refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(41) **"Incinerator"** means a furnace used primarily for the thermal destruction of waste.

(42) **"In operation"** means engaged in activity related to the primary design function of the source.

(43) **"Lowest achievable emission rate (LAER)"** means for any

source that rate of emissions which reflects the more stringent of:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term allow a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable New Source Performance Standards.

(44) **"Mandatory Class I federal area"** means any area defined in Section 162(a) of the Federal Clean Air Act. The following areas are the mandatory Class I federal areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness;

(45) **"Masking"** means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

(46) **"Materials handling"** means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

(47) **"Modification"** means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(48) **"National Ambient Air Quality Standard (NAAQS)"** means an ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

(49) **"National Emission Standards for Hazardous Air Pollutants (NESHAPS)"** means the federal rules in 40 CFR Part 61.

(50) **"National Emission Standards for Hazardous Air Pollutants for Source Categories"** means the federal rules in 40 CFR Part 63.

(51) **"Natural conditions"** means naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

(52) **"New source"** means:

- (a) The construction or modification of a stationary source

that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and

(b) Any other project that constitutes a new source under the Federal Clean Air Act.

(53) **"New Source Performance Standards (NSPS)"** means the federal rules in 40 CFR Part 60.

(54) **"Nonattainment area"** means a geographic area designated by EPA at 40 CFR Part 81 as exceeding a National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

(55) **"Nonroad engine"** means:

(a) Except as discussed in (b) of this subsection, a nonroad engine is any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(b) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or

(ii) The engine is regulated by a New Source Performance Standard promulgated under section 111 of the Federal Clean Air Act; or

(iii) The engine otherwise included in (a)(iii) of this subsection remains or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

(56) **"Notice of construction application"** means a written application to allow construction of a new source, modification

of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

(57) **"Opacity"** means the degree to which an object seen through a plume is obscured, stated as a percentage.

(58) **"Outdoor burning"** means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered outdoor burning.

(59) **"Order"** means any order issued by ecology or a local air authority pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, 70.94.154, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

(60) **"Order of approval"** or **"approval order"** means a regulatory order issued by a permitting authority to approve the notice of construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

(61) **"Ozone depleting substance"** means any substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

(62) **"Particulate matter"** or **"particulates"** means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(63) **"Particulate matter emissions"** means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in Title 40, chapter I of the Code of Federal Regulations or by a test method specified in the SIP.

(64) **"Parts per million (ppm)"** means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(65) **"Permitting authority"** means ecology or the local air pollution control authority with jurisdiction over the source.

(66) **"Person"** means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(67) **"PM-10"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(68) **"PM-10 emissions"** means finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the SIP.

(69) **"Potential to emit"** means the maximum capacity of a

source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a source.

(70) **"Prevention of significant deterioration (PSD)"** means the program in WAC 173-400-700 to 173-400-750.

(71) **"Projected width"** means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

(72) **"Reasonably attributable"** means attributable by visual observation or any other technique the state deems appropriate.

(73) **"Reasonably available control technology (RACT)"** means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

(74) **"Regulatory order"** means an order issued by ecology or permitting authority to an air contaminant source which applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or, for sources regulated by a local air authority, the regulations of that authority.

(75) **"Secondary emissions"** means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the major stationary source or major modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships or trains located at the new or modified major stationary source; and

(b) Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(76) **"Source"** means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities

are ancillary to the production of a single product or functionally related groups of products.

(77) **"Source category"** means all sources of the same type or classification.

(78) **"Stack"** means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(79) **"Stack height"** means the height of an emission point measured from the ground-level elevation at the base of the stack.

(80) **"Standard conditions"** means a temperature of 20° (68° F) and a pressure of 760 mm (29.92 inches) of mercury.

(81) **"State implementation plan (SIP)"** or **"Washington SIP"** means the Washington SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan and compliance schedules approved and promulgated by EPA, for the purpose of implementing, maintaining, and enforcing the National Ambient Air Quality Standards.

(82) **"Stationary source"** means any building, structure, facility, or installation which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216(11) of the Federal Clean Air Act.

(83) **"Sulfuric acid plant"** means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(84) **"Synthetic minor"** means any source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or approval condition.

(85) **"Temporary source"** is a source of emissions (such as a nonroad engine) which is operated at a particular site for a limited period of time. A temporary source may or may not be a stationary source or a source as defined in subsections (78) and (83) of this section, respectively.

(86) **"Total reduced sulfur (TRS)"** means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 in Appendix A to 40 CFR Part 60 or an approved equivalent method and expressed as hydrogen sulfide.

(87) **"Total suspended particulate"** means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

(88) **"Toxic air pollutant (TAP)"** or **"toxic air contaminant"** means any Class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(89) **"Unclassifiable area"** means an area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by

EPA at 40 CFR Part 81.

(90) **"United States Environmental Protection Agency (USEPA)"** shall be referred to as EPA.

(91) **"Visibility impairment"** means any humanly perceptible change in visibility (light extinction, visual range, contrast, or coloration) from that which would have existed under natural conditions.

(92) **"Volatile organic compound (VOC)"** means any carbon compound that participates in atmospheric photochemical reactions.

(a) Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate, methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCH_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane($(CF_3)_2CFCH_2OC_2H_5$); methyl acetate and perfluorocarbon compounds that fall into these classes:

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR

Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by ecology, the authority, or EPA.

(c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the authority, the amount of negligibly-reactive compounds in the source's emissions.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-030, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-030, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.152. 98-01-183 (Order 96-01), § 173-400-030, filed 12/23/97, effective 1/23/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-030, filed 9/13/96, effective 10/14/96; 95-07-126 (Order 93-40), § 173-400-030, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-030, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-030, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-030, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-030, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-030, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-030, filed 5/8/79; Order DE 76-38, § 173-400-030, filed 12/21/76. Formerly WAC 18-04-030.]

WAC 173-400-035 Portable and temporary sources. (1) For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location providing that the owner(s) or operator(s) notifies **ecology** or the **authority** of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable **ecology** or the **authority** to determine that the operation will comply with the **emission standards** for a **new source**, and will not cause a violation of applicable **ambient air quality standards** and, if in a **nonattainment area**, will not interfere with scheduled attainment of **ambient standards**. The permission to operate shall be for a limited period of time (one year or less) and **ecology** or the **authority** may set specific conditions for operation during that period. A temporary source shall be required to comply with all applicable **emission standards**. A temporary or portable source that is considered a **major stationary source** within the meaning of WAC 173-400-113 must also comply with the requirements in WAC 173-400-141.

(2) This section applies statewide except where an authority has its own rule regulating such sources.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-035, filed 8/15/01, effective 9/15/01.]

WAC 173-400-040 General standards for maximum emissions.

All sources and emissions units are required to meet the emission standards of this chapter. Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard will take precedent over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, ecology or the authority shall, as provided in RCW 70.194.154 [RCW 70.94.154], define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(1) **Visible emissions.** No person shall cause or allow the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to allow the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ecology or the authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more emission units are connected to a common stack, ecology or the authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

(e) Exemptions from twenty percent opacity standard.

(i) Visible emissions reader certification testing. Visible

emissions from the "smoke generator" used for testing and certification of visible emissions readers per the requirements of 40 CFR Part 60, Appendix A, Reference Method 9 and ecology methods 9A and 9B shall be exempt from compliance with the twenty percent opacity limitation while being used for certifying visible emission readers.

(ii) Visible emissions resulting from military obscurant training exercises is exempt from compliance with the twenty percent opacity limitation provided the following criteria are met:

(A) No visible emissions shall cross the boundary of the military training site/reservation.

(B) The operation shall have in place methods, which have been reviewed and approved by the permitting authority, to detect changes in weather that would cause the obscurant to cross the site boundary either during the course of the exercise or prior to the start of the exercise. The approved methods shall include provisions that result in cancellation of the training exercise, cease the use of obscurants during the exercise until weather conditions would allow such training to occur without causing obscurant to leave the site boundary of the military site/reservation.

(iii) Visible emissions from fixed and mobile fire fighter training facilities while being used to train fire fighters and while complying with the requirements of chapter 173-425 WAC.

(2) **Fallout.** No person shall cause or allow the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) **Fugitive emissions.** The owner or operator of any emissions unit engaging in materials handling, construction, demolition or other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, the owner or operator shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the air contaminants for which nonattainment has been designated.

(4) **Odors.** Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(5) **Emissions detrimental to persons or property.** No person shall cause or allow the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of

any person, or causes damage to property or business.

(6) Sulfur dioxide.

No person shall cause or allow the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

When the owner or operator of an emissions unit supplies emission data and can demonstrate to ecology or the authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, ecology or the authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results will be made available upon request and a monthly summary will be submitted to ecology or the authority.

(7) Concealment and masking. No person shall cause or allow the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fugitive dust.

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner or operator of any existing source of fugitive dust that has been identified as a significant contributor to a PM-10 nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113 (2)(c).

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-040, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-040, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-040, filed 11/22/00, effective 12/23/00. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-040, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-040, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-040, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-040, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-040, filed 5/8/79; Order DE 76-38, § 173-400-040, filed 12/21/76. Formerly WAC 18-04-040.]

WAC 173-400-045 Control technology fees. (1) General. Ecology may assess and collect a fee as authorized in RCW 70.94.154 and described in subsections (2) through (5) of this section.

(2) Fee schedule for source-specific determinations where RACT analysis and determination are performed by ecology.

(a) Basic RACT analysis and determination fee:

(i) Low complexity (the analysis addresses one type of emission unit) - one thousand five hundred dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - seven thousand five hundred dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - fifteen thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emission units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - two thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - one thousand dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - two thousand dollars.

(3) Fee schedule for source-specific determinations where RACT analysis is performed by the source and review and determination conducted by ecology.

(a) Basic RACT review and determination fees:

(i) Low complexity (the analysis addresses one type of emission unit) - one thousand dollars;

(ii) Moderate complexity (the analysis addresses two to five types of emissions units) - five thousand dollars;

(iii) High complexity (the analysis addresses more than five types of emission units) - ten thousand dollars.

(b) Additional charges based on criteria pollutant emissions: In addition to those fees required under (a) of this subsection, a fee will be required for a RACT analysis and determination for an emission unit or multiple emissions units of uniform design that, individually or in the aggregate, emit one hundred tons per year or more of any criteria pollutant - one thousand dollars.

(c) Additional charges based on toxic air pollutant emissions: In addition to those fees required under (a) and (b) of this subsection, the following fees will be required as applicable:

(i) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than two tons per year but not more than ten tons per year of any toxic air pollutant - five hundred dollars; or

(ii) RACT analysis and determination for an emissions unit or multiple emissions units of uniform design that, individually or in the aggregate, emit more than ten tons per year of any toxic air pollutant - one thousand dollars.

(4) Fee schedule for reviews authorized under RCW 70.94.153 for the replacement or substantial alteration of control technology.

(a) Notice of construction application. Review and approval of notice of construction application (NOCA) for replacement or substantial alteration of control technology - three hundred fifty dollars.

(b) RACT analysis and determination. Review and approval of a RACT analysis and determination for affected emission unit - five hundred dollars.

(5) Fee schedule for categorical RACT determinations. Fees for categorical RACT determinations (for categories with more than three sources) shall be assessed as shown below. The fees described in (a) of this subsection shall be based on the most complex source within a category. Except as provided in (b) and (d) of this subsection, fees for individual sources in the category will be determined by dividing the total source category fee by the number of sources within the category.

(a) RACT analysis and determination (RACT analysis performed by ecology with assistance from sources):

(i) Low complexity source category (average source emissions of individual criteria pollutants are all less than twenty tons per year, average source emissions of individual toxic air pollutants are all less than two tons per year, or the analysis addresses one type of emission unit) - twenty-five thousand dollars;

(ii) Moderate complexity source category (average source emissions of one or more individual criteria pollutants are greater than twenty tons/year and less than one hundred tons per year, average source emissions of one or more individual toxic air pollutants are greater than two tons per year and less than ten tons per year, or the analysis addresses two to five types of emissions units) - fifty thousand dollars; or

(iii) High complexity source category (average source emissions of one or more individual criteria pollutants exceed one hundred tons per year, average source emissions of one or more individual toxic air pollutants exceed ten tons per year, or the analysis addresses more than five types of emission units) - one hundred thousand dollars.

(b) If an emission unit is being evaluated for more than one categorical RACT determination within a five-year period, ecology will charge the owner or operator of that emission unit one fee and the fee will reflect the higher complexity categorical RACT determination.

(c) Ecology may adjust the fee to reflect workload savings

from source involvement in source category RACT determination.

(d) Ecology may approve alternate methods for allocating the fee among sources within the source category.

(6) Small business fee reduction. The RACT analysis and determination fee identified in subsections (2) through (5) of this section may be reduced for a small business.

(a) To qualify for the small business RACT fee reduction, a business must meet the requirements of "small business" as defined in RCW 43.31.025.

(b) To receive a fee reduction, the owner or operator of a small business must include information in an application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the RACT analysis and determination fee shall be reduced to the greater of:

(i) Fifty percent of the RACT analysis and determination fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the RACT analysis and determination fees through to customers; and average annual profits. In no case will a RACT analysis and determination fee be reduced below one hundred dollars.

(7) Fee reductions for pollution prevention initiatives. Ecology may reduce RACT analysis and determination fees for an individual source if that source is using approved pollution prevention measures.

(8) Fee payments. Fees specified in subsection (4)(a) of this section shall be paid at the time a notice of construction applications is submitted to the department. Other fees specified in subsections (2) through (7) of this section shall be paid no later than thirty days after receipt of an ecology billing statement. For fees specified in subsection (5) of this section, a billing for one-half of the payment from each source will be mailed when the source category rule-making effort is commenced as noted by publication of the CR101 form in the

Washington State Register. A billing for the second half of the payment will be mailed when the proposed rule is published in the *Washington State Register*. No order of approval or other action approving or identifying a source to be at RACT will be issued by the department until all fees have been paid by the source. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(9) Dedicated account. All control technology fees collected by the department from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All control technology fees collected by the department from nonpermit program sources shall be deposited in the air pollution control account.

(10) Tracking revenues, time, and expenditures. Ecology shall track revenues on a source-specific basis. For purposes of source-specific determinations under subsections (2) through (4) of this section, Ecology shall track time and expenditures on the basis of source complexity categories. For purposes of categorical determinations under subsection (5) of this section, ecology shall track time and expenditures on a source-category basis.

(11) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

[Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-045, filed 9/13/96, effective 10/14/96. Statutory Authority: RCW 70.94.153 and 70.94.154. 94-17-070, § 173-400-045, filed 8/15/94, effective 9/15/94.]

WAC 173-400-050 Emission standards for combustion and incineration units. (1) Combustion and incineration emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or allow emissions of particulate matter in excess of 0.23 gram per dry cubic meter at standard conditions (0.1 grain/dscf), except, for an emissions unit combusting wood derived fuels for the production of steam. No person shall allow the emission of particulate matter in excess of 0.46 gram per dry cubic meter at standard conditions (0.2 grain/dscf), as measured by EPA method 5 in Appendix A to 40 CFR Part 60, (in effect on July 1, 2004) or approved procedures contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.

(2) For any incinerator, no person shall cause or allow emissions in excess of one hundred ppm of total carbonyls as measured by Source Test Method 14 procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology. An applicable EPA reference method or other procedures to collect and analyze for the same compounds collected in the ecology method may be used if approved by the permitting authority or ecology prior to its use.

(a) **Incinerators** not subject to the requirements of chapter 173-434 WAC or WAC 173-400-050 (4) or (5), or requirements adopted by reference in WAC 173-400-075 (40 CFR 63 subpart EEE) and WAC 173-400-115 (40 CFR 60 subparts E, Ea, Eb, Ec, AAAA, and CCCC) shall be operated only during daylight hours unless written permission to operate at other times is received from the permitting authority.

(b) Total carbonyls means the concentration of organic compounds containing the =C=O radical as collected by the Ecology Source Test Method 14 contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.

(3) Measured concentrations for combustion and incineration units shall be adjusted for volumes corrected to seven percent oxygen, except when ecology or the authority determines that an alternate oxygen correction factor is more representative of normal operations.

(4) **Commercial and industrial solid waste incineration units** constructed on or before November 30, 1999. (See WAC 173-400-115(2) for the requirements for a commercial and industrial solid waste incineration unit constructed after November 30, 1999, or modified or reconstructed after June 1, 2001.)

(a) Definitions.

(i) **"Commercial and industrial solid waste incineration (CISWI) unit"** means any combustion device that combusts commercial and industrial waste, as defined in this subsection. The boundaries of a CISWI unit are defined as, but not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas: (A) The combustion unit flue gas system, which ends immediately after the last combustion chamber. (B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(ii) **"Commercial and industrial solid waste"** means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(b) Applicability. This section applies to incineration units that meet all three criteria:

(i) The incineration unit meets the definition of CISWI unit in this subsection.

(ii) The incineration unit commenced construction on or before November 30, 1999.

(iii) The incineration unit is not exempt under (c) of this

subsection.

(c) The following types of incineration units are exempt from this subsection:

(i) *Pathological waste incineration units.* Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in 40 CFR 60.2265 (in effect on January 30, 2001) are not subject to this section if you meet the two requirements specified in (c)(i)(A) and (B) of this subsection.

(A) Notify the permitting authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(ii) *Agricultural waste incineration units.* Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2265 (in effect on January 30, 2001) are not subject to this subpart if you meet the two requirements specified in (c)(ii)(A) and (B) of this subsection.

(A) Notify the permitting authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.

(iii) *Municipal waste combustion units.* Incineration units that meet either of the two criteria specified in (c)(iii)(A) and (B) of this subsection.

(A) Units are regulated under 40 CFR Part 60, subpart Ea or subpart Eb (in effect on July 1, 2000); Spokane County Air Pollution Control Authority Regulation 1, Section 6.17 (in effect on February 13, 1999); 40 CFR Part 60, subpart AAAA (adopted on December 6, 2000 and in effect on June 1, 2001); or WAC 173-400-050(5).

(B) Units burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 CFR Part 60, subparts Ea (in effect on July 1, 2000), Eb (in effect on July 1, 2000), and AAAA (adopted on December 6, 2000 and in effect on June 1, 2001), and WAC 173-400-050(5), and that have the capacity to burn less than 35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if you meet the two requirements in (c)(iii)(B)(I) and (II) of this subsection.

(I) Notify the permitting authority that the unit meets these criteria.

(II) Keep records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.

(iv) *Medical waste incineration units.* Incineration units regulated under 40 CFR Part 60, subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators

for Which Construction is Commenced After June 20, 1996) (in effect on July 1, 2000);

(v) *Small power production facilities.* Units that meet the three requirements specified in (c)(v)(A) through (C) of this subsection.

(A) The unit qualifies as a small power-production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) You notify the permitting authority that the unit meets all of these criteria.

(vi) *Cogeneration facilities.* Units that meet the three requirements specified in (c)(vi)(A) through (C) of this subsection.

(A) The unit qualifies as a cogeneration facility under section 3 (18)(B) of the Federal Power Act (16 U.S.C. 796 (18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) You notify the permitting authority that the unit meets all of these criteria.

(vii) *Hazardous waste combustion units.* Units that meet either of the two criteria specified in (c)(vii)(A) or (B) of this subsection.

(A) Units for which you are required to get a permit under section 3005 of the Solid Waste Disposal Act.

(B) Units regulated under subpart EEE of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (in effect on July 1, 2000).

(viii) *Materials recovery units.* Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters;

(ix) *Air curtain incinerators.* Air curtain incinerators that burn only the materials listed in (c)(ix)(A) through (C) of this subsection are only required to meet the requirements under "Air Curtain Incinerators" in 40 CFR 60.2245 through 60.2260 (in effect on January 30, 2001).

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(x) *Cyclonic barrel burners.* See 40 CFR 60.2265 (in effect on January 30, 2001).

(xi) *Rack, part, and drum reclamation units.* See 40 CFR 60.2265 (in effect on January 30, 2001).

(xii) *Cement kilns.* Kilns regulated under subpart LLL of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) (in effect on July 1, 2000).

(xiii) *Sewage sludge incinerators.* Incineration units

regulated under 40 CFR Part 60, (Standards of Performance for Sewage Treatment Plants) (in effect on July 1, 2000).

(xiv) *Chemical recovery units.* Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds. The seven types of units described in (c)(xiv)(A) through (H) of this subsection are considered chemical recovery units.

(A) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.

(B) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.

(C) Units burning only wood or coal feedstock for the production of charcoal.

(D) Units burning only manufacturing by-product streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.

(E) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.

(F) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.

(G) Units burning only photographic film to recover silver.

(xv) *Laboratory analysis units.* Units that burn samples of materials for the purpose of chemical or physical analysis.

(d) Exceptions.

(i) Physical or operational changes to a CISWI unit made primarily to comply with this section do not qualify as a "modification" or "reconstruction" (as defined in 40 CFR 60.2815, in effect on January 30, 2001).

(ii) Changes to a CISWI unit made on or after June 1, 2001, that meet the definition of "modification" or "reconstruction" as defined in 40 CFR 60.2815 (in effect on January 30, 2001) mean the CISWI unit is considered a new unit and subject to WAC 173-400-115(2), which adopts 40 CFR Part 60, subpart CCCC by reference.

(e) A CISWI unit must comply with 40 CFR 60.2575 through 60.2875, in effect on January 30, 2001, which is adopted by reference. The federal rule contains these major components:

- Increments of progress towards compliance in 60.2575 through 60.2630;

- Waste management plan requirements in 60.2620 through 60.2630;

- Operator training and qualification requirements in 60.2635 through 60.2665;

- Emission limitations and operating limits in 60.2670 through 60.2685;

- Performance testing requirements in 60.2690 through 60.2725;

- Initial compliance requirements in 60.2700 through 60.2725;

- Continuous compliance requirements in 60.2710 through 60.2725;
- Monitoring requirements in 60.2730 through 60.2735;
- Recordkeeping and reporting requirements in 60.2740 through 60.2800;
- Title V operating permits requirements in 60.2805;
- Air curtain incinerator requirements in 60.2810 through 60.2870;
- Definitions in 60.2875; and
- Tables in 60.2875. In Table 1, the final control plan must be submitted before June 1, 2004, and final compliance must be achieved by June 1, 2005.

(i) Exception to adopting the federal rule. For purposes of this section, "administrator" includes the permitting authority.

(ii) Exception to adopting the federal rule. For purposes of this section, "you" means the owner or operator.

(iii) Exception to adopting the federal rule. For purposes of this section, each reference to "the effective date of state plan approval" means July 1, 2002.

(iv) Exception to adopting the federal rule. The Title V operating permit requirements in 40 CFR 2805(a) are not adopted by reference. Each CISWI unit, regardless of whether it is a major or nonmajor unit, is subject to the air operating permit regulation, chapter 173-401 WAC, beginning on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

(v) Exception to adopting the federal rule. The following compliance dates apply:

(A) The final control plan (Increment 1) must be submitted no later than July 1, 2003. (See Increment 1 in Table 1.)

(B) Final compliance (Increment 2) must be achieved no later than July 1, 2005. (See Increment 2 in Table 1.)

(5) **Small municipal waste combustion units** constructed on or before August 30, 1999. (See WAC 173-400-115(2) for the requirements for a municipal waste combustion unit constructed after August 30, 1999, or reconstructed or modified after June 6, 2001.)

(a) Definition. "Municipal waste combustion unit" means any setting or equipment that combusts, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular combustion units (starved air- or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air-curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define municipal waste combustion units:

(i) Municipal waste combustion units do not include the following units:

(A) Pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under the exemptions in (d)(viii) and (ix) of this subsection.

(B) Cement kilns that combust municipal solid waste as specified under the exemptions in (d)(x) of this subsection.

(C) Internal combustion engines, gas turbines, or other

combustion devices that combust landfill gases collected by landfill gas collection systems.

(ii) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(A) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(C) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

(b) Applicability. This section applies to a municipal waste combustion unit that meets these three criteria:

(i) The municipal waste combustion unit has the capacity to combust at least 35 tons per day of municipal solid waste but no more than 250 tons per day of municipal solid waste or refuse-derived fuel.

(ii) The municipal waste combustion unit commenced construction on or before August 30, 1999.

(iii) The municipal waste combustion unit is not exempt under (c) of this section.

(c) Exempted units. The following municipal waste combustion units are exempt from the requirements of this section:

(i) *Small municipal waste combustion units that combust less than 11 tons per day.* Units are exempt from this section if four requirements are met:

(A) The municipal waste combustion unit is subject to a federally enforceable order or order of approval limiting the amount of municipal solid waste combusted to less than 11 tons per day.

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator of the unit sends a copy of the federally enforceable order or order of approval to the permitting authority.

(D) The owner or operator of the unit keeps daily records of the amount of municipal solid waste combusted.

(ii) *Small power production units.* Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796

(17)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity.

(C) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(iii) *Cogeneration units*. Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (18)(C) of the Federal Power Act (16 U.S.C. 796 (18)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(iv) *Municipal waste combustion units that combust only tires*. Units are exempt from this section if three requirements are met:

(A) The municipal waste combustion unit combusts a single-item waste stream of tires and no other municipal waste (the unit can cofire coal, fuel oil, natural gas, or other nonmunicipal solid waste).

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(v) *Hazardous waste combustion units*. Units are exempt from this section if the units have received a permit under section 3005 of the Solid Waste Disposal Act.

(vi) *Materials recovery units*. Units are exempt from this section if the units combust waste mainly to recover metals. Primary and secondary smelters may qualify for the exemption.

(vii) *Cofired units*. Units are exempt from this section if four requirements are met:

(A) The unit has a federally enforceable order or order of approval limiting municipal solid waste combustion to no more than 30 percent of total fuel input by weight.

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator submits a copy of the federally enforceable order or order of approval to the permitting authority.

(D) The owner or operator records the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(viii) *Plastics/rubber recycling units*. Units are exempt from this section if four requirements are met:

(A) The pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined in 40 CFR 60.1940 (in effect on February 5, 2001).

(B) The owner or operator of the unit records the weight, each quarter, of plastics, rubber, and rubber tires processed.

(C) The owner or operator of the unit records the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(D) The owner or operator of the unit keeps the name and address of the purchaser of the feed stocks.

(ix) *Units that combust fuels made from products of plastics/rubber recycling plants.* Units are exempt from this section if two requirements are met:

(A) The unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(B) The unit does not combust any other municipal solid waste.

(x) *Cement kilns.* Cement kilns that combust municipal solid waste are exempt.

(xi) *Air curtain incinerators.* If an air curtain incinerator as defined under 40 CFR 60.1910 (in effect on February 5, 2001) combusts 100 percent yard waste, then those units must only meet the requirements under 40 CFR 60.1910 through 60.1930 (in effect on February 5, 2001).

(d) Exceptions.

(i) Physical or operational changes to an existing municipal waste combustion unit made primarily to comply with this section do not qualify as a modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on February 5, 2001).

(ii) Changes to an existing municipal waste combustion unit made on or after June 6, 2001, that meet the definition of modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on February 5, 2001), mean the unit is considered a new unit and subject to WAC 173-400-115(2), which adopts 40 CFR Part 60, subpart AAAA (in effect on June 6, 2001).

(e) Municipal waste combustion units are divided into two subcategories based on the aggregate capacity of the municipal waste combustion plant as follows:

(i) Class I units. Class I units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on February 5, 2001) for the specification of which units are included in the aggregate capacity calculation.

(ii) Class II units. Class II units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on February 5, 2001) for the specification of which units are included in the aggregate capacity calculation.

(f) Compliance option 1.

(i) A municipal solid waste combustion unit may choose to reduce, by the final compliance date of June 1, 2005, the maximum combustion capacity of the unit to less than 35 tons per day of municipal solid waste. The owner or operator must submit a final control plan and the notifications of achievement of increments of progress as specified in 40 CFR 60.1610 (in effect on February 5, 2001).

(ii) The final control plan must, at a minimum, include two items:

(A) A description of the physical changes that will be made to accomplish the reduction.

(B) Calculations of the current maximum combustion capacity and the planned maximum combustion capacity after the reduction. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on February 5, 2001) to calculate the combustion capacity of a municipal waste combustion unit.

(iii) An order or order of approval containing a restriction or a change in the method of operation does not qualify as a reduction in capacity. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on February 5, 2001) to calculate the combustion capacity of a municipal waste combustion unit.

(g) Compliance option 2. The municipal waste combustion unit must comply with 40 CFR 60.1585 through 60.1905, and 60.1935 (in effect on February 5, 2001), which is adopted by reference.

(i) The rule contains these major components:

(A) Increments of progress towards compliance in 60.1585 through 60.1640;

(B) Good combustion practices - operator training in 60.1645 through 60.1670;

(C) Good combustion practices - operator certification in 60.1675 through 60.1685;

(D) Good combustion practices - operating requirements in 60.1690 through 60.1695;

(E) Emission limits in 60.1700 through 60.1710;

(F) Continuous emission monitoring in 60.1715 through 60.1770;

(G) Stack testing in 60.1775 through 60.1800;

(H) Other monitoring requirements in 60.1805 through 60.1825;

(I) Recordkeeping reporting in 60.1830 through 60.1855;

(J) Reporting in 60.1860 through 60.1905;

(K) Equations in 60.1935;

(L) Tables 2 through 8.

(ii) Exception to adopting the federal rule. For purposes of this section, each reference to the following is amended in the following manner:

(A) "State plan" in the federal rule means WAC 173-400-050(5).

(B) "You" in the federal rule means the owner or operator.

(C) "Administrator" includes the permitting authority.

(D) Table 1 in (h)(ii) of this subsection substitutes for Table 1 in the federal rule.

(E) "The effective date of the state plan approval" in the

federal rule means December 6, 2002.

(h) Compliance schedule.

(i) Small municipal waste combustion units must achieve final compliance or cease operation not later than December 1, 2005.

(ii) Small municipal waste combustion units must comply with Table 1.

Table 1 Compliance Schedules and Increments of Progress					
Affected units	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin on-site construction)	Increment 4 (Complete on- site construction)	Increment 5 (Final compliance)
All Class I units	August 6, 2003	April 6, 2004	October 6, 2004	October 6, 2005	November 6, 2005
All Class II units	September 6, 2003	Not applicable	Not applicable	Not applicable	May 6, 2005

(iii) Class I units must comply with these additional requirements:

(A) The owner or operator must submit the dioxins/furans stack test results for at least one test conducted during or after 1990. The stack test must have been conducted according to the procedures specified under 40 CFR 60.1790 (in effect on February 5, 2001).

(B) Class I units that commenced construction after June 26, 1987, must comply with the dioxins/furans and mercury limits specified in Tables 2 and 3 in 40 CFR Part 60, subpart BBBB (in effect on February 5, 2001) by the later of two dates:

(I) December 6, 2003; or

(II) One year following the issuance of an order of approval (revised construction approval or operation permit) if an order or order of approval or operation modification is required.

(i) Air operating permit. Applicability to chapter 173-401 WAC, the air operating permit regulation, begins on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-050, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-050, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-050, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-050, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-050, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-050, filed 5/8/79; Order DE 76-38, § 173-400-050, filed 12/21/76. Formerly WAC 18-04-050.]

WAC 173-400-060 Emission standards for general process

units. General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or allow the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods (in effect on February 20, 2001) from 40 CFR Parts 51, 60, 61, and 63 and any other approved test procedures which are contained in ecology's "*Source Test Manual - Procedures For Compliance Testing*" as of July 12, 1990, will be used to determine compliance.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-060, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-060, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-060, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-060, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-060, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-060, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-060, filed 8/20/80; Order DE 76-38, § 173-400-060, filed 12/21/76. Formerly WAC 18-04-060.]

WAC 173-400-070 Emission standards for certain source categories. Ecology finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for emissions units within the categories listed. Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) **Wigwam burners.**

(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), (7), and WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) as applicable.

(b) All wigwam burners shall use RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the permitting authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) Ecology may establish additional requirements for wigwam

burners located in sensitive areas as defined by chapter 173-440 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance if they meet the requirements contained in WAC 173-400-040(1). An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply BACT.

(iii) A requirement to reduce or eliminate emissions if ecology establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to allow soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and the permitting authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and:

(i) No person shall cause or allow the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or allow the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all applicable provisions of WAC 173-400-040. In addition, wood waste burners subject to WAC 173-400-050(4) or

173-400-115 (40 CFR 60 subpart DDDD) must meet all applicable provisions of those sections.

(b) Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize emissions.

(7) Sulfuric acid plants.

No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H_2SO_4 , in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H_2SO_4 .

(8) Sewage sludge incinerators. Standards for the incineration of sewage sludge found in 40 CFR Part 503 subparts A (General Provisions) and E (Incineration) in effect on July 1, 2004, are adopted by reference.

(9) Municipal solid waste landfills constructed, reconstructed, or modified before May 30, 1991. A municipal solid waste landfill (MSW landfill) is an entire disposal facility in a contiguous geographical space where household waste is placed in or on the land. A MSW landfill may also receive other types of waste regulated under Subtitle D of the Federal Resource Conservation and Recovery Act including the following: Commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. A MSW landfill may be either publicly or privately owned. A MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion. All references in this subsection to 40 CFR Part 60 rules mean those rules in effect on July 1, 2000.

(a) Applicability. These rules apply to each MSW landfill constructed, reconstructed, or modified before May 30, 1991; and the MSW landfill accepted waste at any time since November 8, 1987 or the landfill has additional capacity for future waste deposition. (See WAC 173-400-115(2) for the requirements for MSW landfills constructed, reconstructed, or modified on or after May 30, 1991.) Terms in this subsection have the meaning given them in 40 CFR 60.751, except that every use of the word "administrator" in the federal rules referred to in this subsection includes the "permitting authority."

(b) Exceptions. Any physical or operational change to an MSW landfill made solely to comply with these rules is not considered a modification or rebuilding.

(c) Standards for MSW landfill emissions.

(i) A MSW landfill having a design capacity less than 2.5 million megagrams or 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(a) in addition to the applicable requirements specified in this section.

(ii) A MSW landfill having design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(b) in addition to the applicable requirements specified in this section.

(d) Recordkeeping and reporting. A MSW landfill must follow the recordkeeping and reporting requirements in 40 CFR 60.757 (submittal of an initial design capacity report) and 40 CFR

60.758 (recordkeeping requirements), as applicable, except as provided for under (d)(i) and (ii).

(i) The initial design capacity report for the facility is due before September 20, 2001.

(ii) The initial nonmethane organic compound (NMOC) emissions rate report is due before September 20, 2001.

(e) Test methods and procedures.

(i) A MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must calculate the landfill nonmethane organic compound emission rates following the procedures listed in 40 CFR 60.754, as applicable, to determine whether the rate equals or exceeds 50 megagrams per year.

(ii) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii) through the following procedures:

(A) The systems must follow the operational standards in 40 CFR 60.753.

(B) The systems must follow the compliance provisions in 40 CFR 60.755 (a)(1) through (a)(6) to determine whether the system is in compliance with 40 CFR 60.752 (b)(2)(ii).

(C) The system must follow the applicable monitoring provisions in 40 CFR 60.756.

(f) Conditions. Existing MSW landfills that meet the following conditions must install a gas collection and control system:

(i) The landfill accepted waste at any time since November 8, 1987, or the landfill has additional design capacity available for future waste deposition;

(ii) The landfill has design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exception values. Any density conversions shall be documented and submitted with the report; and

(iii) The landfill has a nonmethane organic compound (NMOC) emission rate of 50 megagrams per year or greater.

(g) Change in conditions. After the adoption date of this rule, a landfill that meets all three conditions in (e) of this subsection must comply with all the requirements of this section within thirty months of the date when the conditions were met. This change will usually occur because the NMOC emission rate equaled or exceeded the rate of 50 megagrams per year.

(h) Gas collection and control systems.

(i) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii).

(ii) The design plans must be prepared by a licensed professional engineer and submitted to the permitting authority within one year after the adoption date of this section.

(iii) The system must be installed within eighteen months after the submittal of the design plans.

(iv) The system must be operational within thirty months after the adoption date of this section.

(v) The emissions that are collected must be controlled in

one of three ways:

(A) An open flare designed and operated according to 40 CFR 60.18;

(B) A control system designed and operated to reduce NMOC by 98 percent by weight; or

(C) An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, dry basis to three percent oxygen, or less.

(i) Air operating permit.

(i) A MSW landfill that has a design capacity less than 2.5 million megagrams or 2.5 million cubic meters on January 7, 2000, is not subject to the air operating permit regulation, unless the landfill is subject to chapter 173-401 WAC for some other reason. If the design capacity of an exempted MSW landfill subsequently increases to equal or exceed 2.5 million megagrams or 2.5 million cubic meters by a change that is not a modification or reconstruction, the landfill is subject to chapter 173-401 WAC on the date the amended design capacity report is due.

(ii) A MSW landfill that has a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters on January 7, 2000, is subject to chapter 173-401 WAC beginning on the effective date of this section. (Note: Under 40 CFR 62.14352(e), an applicable MSW landfill must have submitted its application so that by April 6, 2001, the permitting authority was able to determine that it was timely and complete. Under 40 CFR 70.7(b), no source may operate after the time that it is required to submit a timely and complete application.)

(iii) When a MSW landfill is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit for the landfill if the landfill is not subject to chapter 173-401 WAC for some other reason and if either of the following conditions are met:

(A) The landfill was never subject to the requirement for a control system under 40 CFR 62.14353; or

(B) The landfill meets the conditions for control system removal specified in 40 CFR 60.752 (b)(2)(v).

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-070, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-070, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-070, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-070, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-070, filed 9/13/96, effective 10/14/96; 91-05-064 (Order 90-06), § 173-400-070, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-070, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-070, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE

WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants. (1) National emission standards for hazardous air pollutants (NESHAPs). 40 CFR Part 61 and Appendices in effect on July 1, 2004, is adopted by reference. The term "administrator" in 40 CFR Part 61 includes the permitting authority.

(2) The permitting authority may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regulated under 40 CFR Parts 61, 62, 63 and/or 65 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants must conform with the requirements of 40 CFR Parts 61, 62, 63 and/or 65.

(4) This section does not apply to any source operating under a waiver granted by EPA or an exemption granted by the president of the United States.

(5) Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Parts 61 or 63, from the affected facility in lieu of providing such report to EPA, the affected facility is required to provide such reports only to the permitting authority unless otherwise requested in writing by the permitting authority or EPA.

(6) **Maximum achievable control technology (MACT) standards.** MACT standards are officially known as National Emission Standards for Hazardous Air Pollutants for Source Categories.

(a) Adopt by reference.

40 CFR Part 63 and Appendices in effect on October 1, 2004, is adopted by reference. Exceptions are listed in (6)(b) of this section.

The following list of subparts to 40 CFR 63 which are shown as blank or reserved as of the date listed above, is provided for informational purposes only: Subparts K, P, V, Z, FF, NN, ZZ, AAA, BBB, FFF, KKK, SSS, WWW, YYY, ZZZ, BBBB, DDDDD, NNNNN, and OOOOO.

(b) Exceptions to adopting 40 CFR Part 63 by reference.

(i) The term "administrator" in 40 CFR Part 63 includes the permitting authority.

(ii) The following subparts of 40 CFR Part 63 are not adopted by reference:

(A) Subpart C: List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List.

(B) Subpart E: Approval of State Programs and Delegation of Federal Authorities.

(C) Subpart M: National Perchloroethylene Emission Standards for Dry Cleaning Facilities as it applies to nonmajor sources.

(6) **Consolidated requirements for the synthetic organic**

chemical manufacturing industry. 40 CFR Part 65, in effect on July 1, 2001, is adopted by reference.

(7) Emission Standards for Perchloroethylene Dry Cleaners.

(a) Applicability.

(i) This section applies to all dry cleaning systems that use perchloroethylene (PCE). Table 1 divides dry cleaning facilities into 3 regulatory source categories by the type of equipment they use and the volume of PCE purchased. Each dry cleaning system must follow the applicable requirements in Table 1:

TABLE 1. PCE Dry Cleaner Source Categories

Dry cleaning facilities with:	Small area source purchases less than:	Large area source purchases between:	Major source purchases more than:
(1) Only Dry-to-Dry Machines	140 gallons PCE/yr	140-2,100 gallons PCE/yr	2,100 gallons PCE/yr
(2) Only Transfer Machines	200 gallons PCE/yr	200-1,800 gallons PCE/yr	1,800 gallons PCE/yr
(3) Both Dry-to-Dry and Transfer Machines	140 gallons PCE/yr	140-1,800 gallons PCE/yr	1,800 gallons PCE/yr

(ii) Major sources. In addition to the requirements in this section, a dry cleaning system that is considered a major source according to Table 1 must follow the federal requirements for major sources in 40 CFR Part 63, Subpart M (in effect on July 1, 2001).

(b) Operations and maintenance record.

(i) Each dry cleaning facility must keep an operations and maintenance record that is available upon request.

(ii) The information in the operations and maintenance record must be kept on-site for five years.

(iii) The operations and maintenance record must contain the following information:

(A) Inspection: The date and result of each inspection of the dry cleaning system. The inspection must note the condition of the system and the time any leaks were observed.

(B) Repair: The date, time, and result of each repair of the dry cleaning system.

(C) Refrigerated condenser information. If you have a refrigerated condenser, enter this information:

(I) The air temperature at the inlet of the refrigerated condenser;

(II) The air temperature at the outlet of the refrigerated condenser;

(III) The difference between the inlet and outlet temperature readings; and

(IV) The date the temperature was taken.

(D) Carbon adsorber information. If you have a carbon adsorber, enter this information:

(I) The concentration of PCE in the exhaust of the carbon adsorber; and

(II) The date the concentration was measured.

(E) A record of the volume of PCE purchased each month must be entered by the first of the following month;

(F) A record of the total amount of PCE purchased over the previous twelve months must be entered by the first of each month;

(G) All receipts of PCE purchases; and

(H) A record of any pollution prevention activities that have been accomplished.

(c) **General operations and maintenance requirements.**

(i) Drain cartridge filters in their housing or other sealed container for at least twenty-four hours before discarding the cartridges.

(ii) Close the door of each dry cleaning machine except when transferring articles to or from the machine.

(iii) Store all PCE, and wastes containing PCE, in a closed container with no perceptible leaks.

(iv) Operate and maintain the dry cleaning system according to the manufacturer's specifications and recommendations.

(v) Keep a copy on-site of the design specifications and operating manuals for all dry cleaning equipment.

(vi) Keep a copy on-site of the design specifications and operating manuals for all emissions control devices.

(vii) Route the PCE gas-vapor stream from the dry cleaning system through the applicable equipment in Table 2:

TABLE 2. Minimum PCE Vapor Vent Control Requirements

Small area source	Large area source	Major source
Refrigerated condenser for all machines installed after September 21, 1993.	Refrigerated condenser for all machines.	Refrigerated condenser with a carbon adsorber for all machines installed after September 21, 1993.

(d) **Inspection.**

(i) The owner or operator must inspect the dry cleaning system at a minimum following the requirements in Table 3:

TABLE 3. Minimum Inspection Frequency

Small area source	Large area source	Major source
Once every 2 weeks.	Once every week.	Once every week.

(ii) An inspection must include an examination of these components for condition and perceptible leaks:

(A) Hose and pipe connections, fittings, couplings, and valves;

(B) Door gaskets and seatings;

(C) Filter gaskets and seatings;

(D) Pumps;

(E) Solvent tanks and containers;

(F) Water separators;

(G) Muck cookers;

(H) Stills;

(I) Exhaust dampers; and

(J) Cartridge filter housings.

(iii) The dry cleaning system must be inspected while it is operating.

(iv) The date and result of each inspection must be entered in the operations and maintenance record at the time of the inspection.

(e) **Repair.**

(i) Leaks must be repaired within twenty-four hours of detection if repair parts are available.

(ii) If repair parts are unavailable, they must be ordered within two working days of detecting the leak.

(iii) Repair parts must be installed as soon as possible, and no later than five working days after arrival.

(iv) The date and time each leak was discovered must be entered in the operations and maintenance record.

(v) The date, time, and result of each repair must be entered in the operations and maintenance record at the time of the repair.

(f) **Requirements for systems with refrigerated condensers.**

A dry cleaning system using a refrigerated condenser must meet all of the following requirements:

(i) Outlet air temperature.

(A) Each week the air temperature sensor at the outlet of the refrigerated condenser must be checked.

(B) The air temperature at the outlet of the refrigerated condenser must be less than or equal to 45°F (7.2°C) during the cool-down period.

(C) The air temperature must be entered in the operations and maintenance record manual at the time it is checked.

(D) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a dry-to-dry machine, dryer or reclaimer at the outlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure at least a temperature range from 32°F (0°C) to 120°F (48.9°C); and

(IV) The air temperature sensor must be labeled "RC outlet."

(ii) Inlet air temperature.

(A) Each week the air temperature sensor at the inlet of the refrigerated condenser installed on a washer must be checked.

(B) The inlet air temperature must be entered in the operations and maintenance record at the time it is checked.

(C) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a washer at the inlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure

at least a temperature range from 32°F (0°C) to 120°F (48.9°C).

(IV) The air temperature sensor must be labeled "RC inlet."

(iii) For a refrigerated condenser used on the washer unit of a transfer system, the following are additional requirements:

(A) Each week the difference between the air temperature at the inlet and outlet of the refrigerated condenser must be calculated.

(B) The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F (11.1°C).

(C) The difference between the inlet and outlet air temperature must be entered in the operations and maintenance record each time it is checked.

(iv) A converted machine with a refrigerated condenser must be operated with a diverter valve that prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machine is open;

(v) The refrigerated condenser must not vent the air-PCE gas-vapor stream while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened; and

(vi) The refrigerated condenser in a transfer machine may not be coupled with any other equipment.

(g) **Requirements for systems with carbon adsorbers.** A dry cleaning system using a carbon adsorber must meet all of the following requirements:

(i) Each week the concentration of PCE in the exhaust of the carbon adsorber must be measured at the outlet of the carbon adsorber using a colorimetric detector tube.

(ii) The concentration of PCE must be written in the operations and maintenance record each time the concentration is checked.

(iii) If the dry cleaning system was constructed before December 9, 1991, monitoring must begin by September 23, 1996.

(iv) The colorimetric tube must meet these requirements:

(A) The colorimetric tube must be able to measure a concentration of 100 parts per million of PCE in air.

(B) The colorimetric tube must be accurate to within 25 parts per million.

(C) The concentration of PCE in the exhaust of the carbon adsorber must not exceed 100 ppm while the dry cleaning machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber.

(v) If the dry cleaning system does not have a permanently fixed colorimetric tube, a sampling port must be provided within the exhaust outlet of the carbon adsorber. The sampling port must meet all of these requirements:

(A) The sampling port must be easily accessible;

(B) The sampling port must be located 8 stack or duct diameters downstream from a bend, expansion, contraction or outlet; and

(C) The sampling port must be 2 stack or duct diameters upstream from a bend, expansion, contraction, inlet or outlet.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-075, filed 1/10/05, effective 2/10/05. Statutory Authority: RCW 70.94.331. 02-15-068 (Order 02-09), § 173-400-075, filed 7/11/02, effective 8/11/02. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-075, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-075, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-075, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-075, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), § 173-400-075, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), § 173-400-075, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-075, filed 3/6/85. Statutory Authority: Chapter 70.94 RCW. 84-10-019 (Order DE 84-8), § 173-400-075, filed 4/26/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-075, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-075, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-075, filed 5/8/79; Order DE 76-38, § 173-400-075, filed 12/21/76. Formerly WAC 18-04-075.]

WAC 173-400-081 Startup and shutdown. In promulgating technology-based emission standards and making control technology determinations (e.g., BACT, RACT, LAER, BART) ecology and the authorities shall consider any physical constraints on the ability of a source to comply with the applicable standard during startup or shutdown. Where ecology or the authority determines that the source or source category, operated and maintained in accordance with good air pollution control practice, is not capable of achieving continuous compliance with an emission standard during startup or shutdown, ecology or the authority shall include in the standard appropriate emission limitations, operating parameters, or other criteria to regulate the performance of the source during startup or shutdown conditions. In modeling the emissions of a source for purposes of demonstrating attainment or maintenance of national ambient air quality standards, ecology and the authorities shall take into account any incremental increase in allowable emissions under startup or shutdown conditions authorized by an emission limitation or other operating parameter adopted under this rule. Any emission limitation or other parameter adopted under this rule which increases allowable emissions during startup or shutdown conditions over levels authorized in an approved state implementation plan shall not take effect until approved by EPA as a SIP amendment.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-081, filed 8/20/93, effective 9/20/93.]

WAC 173-400-091 Voluntary limits on emissions. (1) Upon request by the owner or operator of a source, ecology or the authority with jurisdiction over the source shall issue a regulatory order that limits the source's potential to emit any air contaminant or contaminants to a level agreed to by the owner or operator and ecology or the authority with jurisdiction over the source.

(2) A condition contained in an order issued under this section shall be less than the source's otherwise allowable annual emissions of a particular contaminant under all applicable requirements of the chapter 70.94 RCW and the FCAA, including any standard or other requirement provided for in the Washington state implementation plan. The term "condition" refers to limits on production or other limitations, in addition to emission limitations.

(3) Any order issued under this section shall include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source complies with any condition established under this section. Monitoring requirements shall use terms, test methods, units, averaging periods, and other statistical conventions consistent with the requirements of WAC 173-400-105.

(4) Any order issued under this section shall be subject to the notice and comment procedures under WAC 173-400-171.

(5) The terms and conditions of a regulatory order issued under this section shall be federally enforceable, upon approval of this section as an element of the Washington state implementation plan. Any proposed deviation from a condition contained in an order issued under this section shall require revision or revocation of the order.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-091, filed 8/20/93, effective 9/20/93.]

WAC 173-400-099 Registration program. (1) Program purpose.

(a) The registration program is a program to develop and maintain a current and accurate record of air contaminant sources. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

(b) Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.

(2) Program components. The components of the registration program consist of:

(a) Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air contaminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes

of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter 70.94 RCW.

(b) On-site inspections necessary to verify compliance with registration requirements.

(c) Data storage and retrieval systems necessary for support of the registration program.

(d) Emission inventory reports and emission reduction credits computed from information provided by source owners pursuant to registration requirements.

(e) Staff review, including engineering analysis for accuracy and currentness of information provided by source owners pursuant to registration program requirements.

(f) Clerical and other office support in direct furtherance of the registration program.

(g) Administrative support provided in directly carrying out the registration program.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-099, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-099, filed 3/22/95, effective 4/22/95.]

WAC 173-400-100 Source classifications. (1) Source classification list. In counties without a local authority, or for sources under the jurisdiction of ecology, the owner or operator of each source within the following source categories shall register the source with ecology:

(a) Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;

(b) Agricultural drying and dehydrating operations;

(c) Any category of stationary source that includes an emissions unit subject to a new source performance standard (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters);

(d) Any stationary source, that includes an emissions unit subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61, other than:

(i) Subpart M (National Emission Standard for Asbestos); or

(ii) Sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I, and that are not subject to any other part of 40 CFR 61, 62, or 63, or any other parts of this section;

(e) Any source, or emissions unit subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technology (MACT) standard) under 40 CFR Part 63;

(f) Any source, stationary source or emission unit with an emission rate of one or more pollutants equal to or greater than an "emission threshold" defined in WAC 173-400-030;

(g) Asphalt and asphalt products production facilities;

(h) Brick and clay manufacturing plants, including tiles and

ceramics;

(i) Casting facilities and foundries, ferrous and nonferrous;

(j) Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;

(k) Chemical manufacturing plants;

(l) Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;

(m) Concrete product manufacturers and ready mix and premix concrete plants;

(n) Crematoria or animal carcass incinerators;

(o) Dry cleaning plants;

(p) Materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;

(q) Flexible vinyl and urethane coating and printing operations;

(r) Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;

(s) Hay cubers and pelletizers;

(t) Hazardous waste treatment and disposal facilities;

(u) Ink manufacturers;

(v) Insulation fiber manufacturers;

(w) Landfills, active and inactive, including covers, gas collections systems or flares;

(x) Metal plating and anodizing operations;

(y) Metallic and nonmetallic mineral processing plants, including rock crushing plants;

(z) Mills such as lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;

(aa) Mineralogical processing plants;

(bb) Other metallurgical processing plants;

(cc) Paper manufacturers;

(dd) Petroleum refineries;

(ee) Petroleum product blending operations;

(ff) Plastics and fiberglass product fabrication facilities;

(gg) Rendering plants;

(hh) Soil and ground water remediation projects;

(ii) Surface coating manufacturers;

(jj) Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;

(kk) Synthetic fiber production facilities;

(ll) Synthetic organic chemical manufacturing industries;

(mm) Tire recapping facilities;

(nn) Wastewater treatment plants;

(oo) Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate

nonapplicability to EPA requirements under Sections 111 or 112 of Federal Clean Air Act.

(2) **Equipment classification list.** In counties without a local authority, the owner or operator of the following equipment shall register the source with ecology:

(a) Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;

(b) Boilers, all gas fired boilers above 10 million British thermal units per hour input;

(c) Chemical concentration evaporators;

(d) Degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;

(e) Ethylene oxide (ETO) sterilizers;

(f) Flares utilized to combust any gaseous material;

(g) Fuel burning equipment with a heat input of more than 1 million Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;

(h) Incinerators designed for a capacity of one hundred pounds per hour or more;

(i) Ovens, burn-out and heat-treat;

(j) Stationary internal combustion engines and turbines rated at five hundred horsepower or more;

(k) Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;

(l) Vapor collection systems within commercial or industrial facilities;

(m) Waste oil burners above 0.5 mm Btu heat output;

(n) Woodwaste incinerators;

(o) Commercial and industrial solid waste incineration units subject to WAC 173-400-050(4);

(p) Small municipal waste combustion units subject to WAC 173-400-050(5).

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-100, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-100, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-100, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-100, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-100, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-100, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-100, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-100, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-100, filed 5/8/79; Order DE 76-38, § 173-400-100, filed 12/21/76. Formerly WAC 18-04-100.]

WAC 173-400-101 Registration issuance. (1) General. Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required shall register the source emission unit with ecology or the authority. The owner or operator shall make reports containing information as may be required by ecology or the authority concerning location, size and height of contaminant outlets, processes employed, nature and quantity of the air contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(2) Registration form. Registration information shall be provided on forms supplied by ecology or the authority and shall be completed and returned within the time specified on the form. Emission units within the facility shall be listed separately unless ecology or the authority determines that certain emission units may be combined into process streams for purposes of registration and reporting.

(3) Signatory responsibility. The owner, operator, or their designated management representative shall sign the registration form for each source. The owner or operator of the source shall be responsible for notifying ecology or the authority of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

(4) Operational and maintenance plan. Owners or operators of registered sources within ecology's jurisdiction shall maintain an operation and maintenance plan for process and control equipment. The plan shall reflect good industrial practice and shall include a record of performance and periodic inspections of process and control equipment. In most instances, a manufacturer's operations manual or an equipment operation schedule may be considered a sufficient operation and maintenance plan. The plan shall be reviewed and updated by the source owner or operator at least annually. A copy of the plan shall be made available to ecology upon request.

(5) Report of closure. A report of closure shall be filed with ecology or the authority within ninety days after operations producing emissions permanently cease at any applicable source under this section.

(6) Report of change of ownership. A new owner or operator shall report to ecology or the authority within ninety days of any change of ownership or change in operator.

(7) Operating permit program source exemption. Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-101, filed 3/22/95, effective 4/22/95; 94-10-042 (Order 93-39), § 173-400-101, filed 4/29/94, effective 5/30/94.]

WAC 173-400-102 Scope of registration and reporting requirements. (1) **Administrative options.** A source in a listed source category that is located in a county without an active local authority will be addressed in one of several ways:

(a) The source will be required to register and report once each year. The criteria for identifying these sources are listed in subsection (2) of this section.

(b) The source will be required to register and report once every three years. The criteria for identifying these sources are listed in subsection (3) of this section.

(c) The source will be exempted from registration program requirements. The criteria for identifying these sources are listed in subsection (4) of this section.

(2) **Sources requiring annual registration and inspections.** An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once each year:

(a) The source emits one or more air pollutants at rates greater than the "emission threshold" rates defined in WAC 173-400-030;

(b) Annual registration and reporting is necessary to comply with federal reporting requirements or emission standards; or

(c) Annual registration and reporting is required in a reasonably available control technology determination for the source category; or

(d) The director of ecology determines that the source poses a potential threat to human health and the environment.

(3) **Sources requiring periodic registration and inspections.** An owner or operator of a source in a listed source category that meets any of the following criteria shall register and report once every three years:

(a) The source emits one or more air pollutants at rates greater than the emission rates listed in subsection (5) of this section and all air pollutants at rates less than the "emission threshold" rates defined in WAC 173-400-030; or

(b) The source emits measurable amounts of one or more Class A or Class B toxic air pollutants listed in WAC 173-460-150 and 173-460-160.

(4) **Sources exempt from registration program requirements.** Any source included in a listed source category that is located in a county without an active local air authority shall not be required to register if ecology determines the following:

(a) The source emits pollutants below emission rates specified in subsection (5) of this section; and

(b) The source or emission unit does not emit measurable amounts of Class A or Class B toxic air pollutants specified in WAC 173-460-150 and 173-460-160.

(5) **Criteria for defining exempt sources.** The following emission rates will be used to identify listed sources that are exempt from registration program requirements:

Pollutant	Tons/Year
Carbon Monoxide	5.0

Pollutant	Tons/Year
Nitrogen oxides	2.0
Sulfur dioxide	2.0
Particulate Matter (PM)	1.25
Fine Particulate (PM10)	0.75
Volatile organic compounds (VOC)	2.0
Lead	0.005

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-102, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-102, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-102, filed 3/22/95, effective 4/22/95.]

WAC 173-400-103 Emission estimates. (1) Procedure for estimating emissions. In counties without an active local air pollution control authority, registration may include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. Registration may also include a flowchart of plant processes, operational parameters, and specifications of air pollution control equipment. The emissions estimate shall be based upon actual test data or, in the absence of such data, upon procedures acceptable to ecology. Any emission data submitted to ecology shall be verifiable using currently accepted engineering criteria. The following procedures may be used to estimate emissions from individual sources or emissions units:

- (a) Source-specific testing data;
- (b) Mass balance calculations;
- (c) A published, verifiable emission factor that is applicable to the source;
- (d) Other engineering calculations; or
- (e) Other procedures to estimate emissions that are acceptable to ecology.

(2) Owner or operator review. Ecology will provide the owner or operator of the source an opportunity to review any emission estimates prepared by ecology. An owner or operator may submit additional information and any justification for not using the methods listed above. This information will be evaluated by ecology to determine whether it is based on currently accepted engineering criteria. If none of the above methods are available or applicable to the source, an appropriate method will be established and approved by ecology on a case-by-case basis.

[Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-103, filed 3/22/95, effective 4/22/95.]

WAC 173-400-104 Registration fees. (1) Registration fee

determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.

(2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC 173-400-099(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.

(3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:

(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.

(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:

(i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.

(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.

(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable emissions include all air pollutants except carbon monoxide and total suspended particulate.

(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.

(6) Fee reductions for economic hardships. If a small

business owner believes the registration fee results in an extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.

(7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.

(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.

(9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.

(10) Additional registration fee for fossil fueled electric generating facilities. A fossil fueled electric generating facility subject to the provisions of chapter 80.70 RCW and RCW 70.94.892, is subject to additional fees pursuant to that chapter.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-104, filed 1/10/05, effective 2/10/05. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-104, filed 11/22/00, effective 12/23/00. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-104, filed 3/22/95, effective 4/22/95.]

WAC 173-400-105 Records, monitoring, and reporting. The owner or operator of a source shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

(1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory will include stack and fugitive emissions of particulate matter, PM-10, PM-2.5, sulfur dioxide, oxides of nitrogen, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, ammonia, and other contaminants. The format for the submittal of these inventories will be specified by the permitting authority or ecology. When submittal of emission inventory information is requested, the

emissions inventory shall be submitted no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards. Emission estimates used in the inventory may be based on the most recent published EPA emission factors for a source category, or other information available to the owner(s) or operator(s), whichever is the better estimate.

(2) **Monitoring.** Ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants. As a part of this program, the director of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

(3) **Investigation of conditions.** Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from ecology or an authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(4) **Source testing.** To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR parts 51, 60, 61 and 63 (in effect on July 1, 2004), or procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(5) **Continuous monitoring and recording.** Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the

Federal Power Commission for calendar year 1974, or as otherwise demonstrated to ecology or the authority by the owner(s) or operator(s).

(b) **Sulfuric acid plants.** Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries. Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of (e) of this subsection do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by (d) of this subsection shall be subject to approval by ecology.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this subsection shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5 (in effect on July 1, 2004).

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(g) Exemptions. This subsection (5) does not apply to any equipment subject to: Continuous emissions monitoring requirement imposed by standard or requirement under 40 CFR Parts 60, 61, 62, 63, or 75 or a permitting authority's adoption by reference of such federal standards.

(h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of the permitting authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Change in raw materials or fuels for sources not subject to requirements of the operating permit program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by subsection (1) of this section shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. Ecology or the authority may

issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

(7) No person shall make any false material statement, representation or certification in any form, notice or report required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

(8) No person shall render inaccurate any monitoring device or method required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-105, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-105, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-105, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-105, filed 9/13/96, effective 10/14/96; 93-18-007 (Order 93-03), § 173-400-105, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-105, filed 2/19/91, effective 3/22/91; 87-20-019 (Order 87-12), § 173-400-105, filed 9/30/87.]

WAC 173-400-107 Excess emissions. (1) The owner or operator of a source shall have the burden of proving to ecology or the authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.

(2) Excess emissions determined to be unavoidable under the procedures and criteria in this section shall be excused and not subject to penalty.

(3) Excess emissions which represent a potential threat to human health or safety or which the owner or operator of the source believes to be unavoidable shall be reported to ecology or the authority as soon as possible. Other excess emissions shall be reported within thirty days after the end of the month during which the event occurred or as part of the routine emission monitoring reports. Upon request by ecology or the authority, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

(4) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been prevented through careful planning and design and if a bypass of control equipment occurs, that such bypass is necessary to

prevent loss of life, personal injury, or severe property damage.

(5) Maintenance. Excess emissions due to scheduled maintenance shall be considered unavoidable if the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance or through better operation and maintenance practices.

(6) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that:

(a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;

(b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-107, filed 8/20/93, effective 9/20/93.]

WAC 173-400-110 New source review (NSR). In lieu of filing a notice of construction application under this section, the owner or operator may apply for coverage under an applicable general order of approval issued under WAC 173-400-560. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) Applicability.

(a) This section, WAC 173-400-112 and 173-400-113 apply statewide except where an authority has adopted its own new source review rule.

(b) This section applies to sources as defined in RCW 70.94.030(21), but does not include nonroad engines. Nonroad engines are regulated under WAC 173-400-035.

(2) Projects subject to NSR - notice of construction application.

(a) A notice of construction application must be filed by the owner or operator and an order of approval issued by the permitting authority prior to the establishment of any new source, except for the following:

(i) Those sources exempt under subsection (4) or (5) of this section; and

(ii) A source regulated under WAC 173-400-035.

For purposes of this section "establishment" shall mean to begin actual construction, as that term is defined in WAC 173-

400-030, and "new source" shall include any modification to an existing stationary source, as defined in WAC 173-400-030.

(b) Regardless of any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the permitting authority prior to establishment of any of the following new sources:

(i) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except Part AAA, Wood stoves (in effect on February 20, 2001);

(ii) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants) (in effect on July 1, 2004), except for asbestos demolition and renovation projects subject to 40 CFR 61.145, and except from sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I;

(iii) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories) (in effect on July 1, 2004);

(iv) Any project that qualifies as a new major stationary source, or a major modification to a major stationary source subject to the requirements of WAC 173-400-112;

(v) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

(c) An applicant filing a notice of construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, must send a copy of the application to the responsible federal land manager.

(3) **Modifications.** New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-720, as applicable.

(4) **Emission unit and activity exemptions.**

Except as provided in subsection (2) of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a notice of construction application.

(a) Maintenance/construction:

(i) Cleaning and sweeping of streets and paved surfaces;

(ii) Concrete application, and installation;

(iii) Dredging wet spoils handling and placement;

(iv) Paving application and maintenance, excluding asphalt plants;

(v) Plant maintenance and upkeep activities (grounds

keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

(vi) Plumbing installation, plumbing protective coating application and maintenance activities;

(vii) Roofing application;

(viii) Insulation application and maintenance, excluding products for resale;

(ix) Janitorial services and consumer use of janitorial products.

(b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks. Ecology strongly recommends that an owner or operator contact the permitting authority to determine the exemption status of storage tanks prior to their installation.

(i) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

(ii) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

(iii) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

(iv) Process and white water storage tanks;

(v) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

(vi) Operation, loading and unloading of storage tanks, \leq 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21°C;

(vii) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

(viii) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

(c) A project with combined aggregate heat inputs of combustion units, \leq all of the following:

(i) \leq 500,000 Btu/hr using coal with \leq 0.5% sulfur or other fuels with \leq 0.5% sulfur;

(ii) \leq 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

(iii) \leq 400,000 Btu/hr wood waste or paper;

(iv) $<$ 1,000,000 Btu/hr using kerosene, #1, or #2 fuel oil and with \leq 0.05% sulfur;

(v) \leq 4,000,000 Btu/hr using natural gas, propane, or LPG.

(d) Material handling:

(i) Continuous digester chip feeders;

(ii) Grain elevators not licensed as warehouses or dealers by either the Washington state department of agriculture or the U.S. Department of Agriculture;

(iii) Storage and handling of water based lubricants for metal working where organic content of the lubricant is \leq 10%;

(iv) Equipment used exclusively to pump, load, unload, or

store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

(e) Water treatment:

(i) Septic sewer systems, not including active wastewater treatment facilities;

(ii) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

(iii) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

(iv) Process water filtration system and demineralizer vents;

(v) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

(vi) Demineralizer tanks;

(vii) Alum tanks;

(viii) Clean water condensate tanks.

(f) Environmental chambers and laboratory equipment:

(i) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

(ii) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

(iii) Installation or modification of a single laboratory fume hood;

(iv) Laboratory calibration and maintenance equipment.

(g) Monitoring/quality assurance/testing:

(i) Equipment and instrumentation used for quality control/assurance or inspection purpose;

(ii) Hydraulic and hydrostatic testing equipment;

(iii) Sample gathering, preparation and management;

(iv) Vents from continuous emission monitors and other analyzers.

(h) Miscellaneous:

(i) Single-family residences and duplexes;

(ii) Plastic pipe welding;

(iii) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

(iv) Comfort air conditioning;

(v) Flares used to indicate danger to the public;

(vi) Natural and forced air vents and stacks for bathroom/toilet activities;

(vii) Personal care activities;

(viii) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;

(ix) Tobacco smoking rooms and areas;

(x) Noncommercial smokehouses;

(xi) Blacksmith forges for single forges;

(xii) Vehicle maintenance activities, not including vehicle surface coating;

(xiii) Vehicle or equipment washing (see (c) of this

subsection for threshold for boilers);

(xiv) Wax application;

(xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;

(xvi) Ozone generators and ozonation equipment;

(xvii) Solar simulators;

(xviii) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;

(xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;

(xx) Pulse capacitors;

(xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;

(xxii) Fire suppression equipment;

(xxiii) Recovery boiler blow-down tank;

(xxiv) Screw press vents;

(xxv) Drop hammers or hydraulic presses for forging or metal working;

(xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

(xxvii) Kraft lime mud storage tanks and process vessels;

(xxviii) Lime grits washers, filters and handling;

(xxix) Lime mud filtrate tanks;

(xxx) Lime mud water;

(xxxi) Stock cleaning and pressurized pulp washing down process of the brown stock washer;

(xxxii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

(xxxiii) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;

(xxxiv) Surface coating, aqueous solution or suspension containing $\leq 1\%$ (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

(xxxv) Cleaning and stripping activities and equipment using solutions having $\leq 1\%$ VOCs (by weight); on metallic substances, acid solutions are not exempt;

(xxxvi) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

(5) Exemptions based on emissions.

(a) Except as provided in subsection (2) of this section and in this subsection:

(i) A new emissions unit that has a potential to emit below each of the levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

(ii) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this

subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

(b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with the permitting authority prior to beginning actual construction on the project. If the permitting authority determines that the project will have more than a de minimus impact on air quality, the permitting authority may require the filing of a notice of construction application. The permitting authority may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the levels listed below.

(c) The owner/operator may begin actual construction on the project thirty-one days after the permitting authority receives the summary, unless the permitting authority notifies the owner/operator within thirty days that the proposed new source requires a notice of construction application.

(d) Exemption level table:

POLLUTANT	LEVEL (TONS PER YEAR)
(a) Total Suspended Particulates	1.25
(b) PM-10	0.75
(c) Sulfur Oxides	2.0
(d) Nitrogen Oxides	2.0
(e) Volatile Organic Compounds, total	2.0
(f) Carbon Monoxide	5.0
(g) Lead	0.005
(h) Ozone Depleting Substances (in effect on July 1, 2000), total	1.0
(i) Toxic Air Pollutants	As specified in chapter 173-460 WAC.

(6) Application processing - completeness determination.

(a) Within thirty days after receiving a notice of construction application, the permitting authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application.

(b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

(7) Final determination.

(a) Within sixty days of receipt of a complete notice of construction application, the permitting authority shall either issue a final decision on the application or for those projects subject to public notice under WAC 173-400-171(1), initiate

notice and comment on a proposed decision, followed as promptly as possible by a final decision.

(b) A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under chapter 173-401 WAC and the notice of construction application required by this section. A notice of construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must also comply with WAC 173-400-171.

(c) Every final determination on a notice of construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the permitting authority.

(d) If the new source is a major stationary source or the change is a major modification subject to the requirements of WAC 173-400-112, the permitting authority shall:

(i) Submit any control technology determination included in a final order of approval for a major source or a major modification to a major stationary source in a nonattainment area to the RACT/BACT/LAER clearinghouse maintained by EPA; and

(ii) Send a copy of the final approval order to EPA.

(8) **Appeals.** Any conditions contained in an order of approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. The permitting authority shall promptly mail copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

(9) **Construction time limitations.** Approval to construct or modify a stationary source becomes invalid if the applicant does not begin construction within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The permitting authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. The extension of a project that is either a major stationary source in a nonattainment area or a major modification in a nonattainment area must also require LAER as it exists at the time of the extension. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commence construction date.

(10) **Change of conditions.**

(a) The owner or operator may request, at any time, a change in conditions of an approval order and the permitting authority may approve the request provided the permitting authority finds that:

(i) The change in conditions will not cause the source to exceed an emissions standard;

(ii) No ambient air quality standard will be exceeded as a result of the change;

(iii) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;

(iv) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and

(v) The revised order meets the requirements of WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-720, as applicable.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171.

(c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a notice of construction application, that application must be acted upon using the timelines found in subsections (6) and (7) of this section. The fee schedule found in WAC 173-400-116 shall also apply to requests filed as notice of construction applications.

(11) **Enforcement.** All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-110, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-110, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-110, filed 7/21/98, effective 8/21/98. Statutory Authority: RCW 70.94.152. 98-01-183 (Order 96-01), § 173-400-110, filed 12/23/97, effective 1/23/98. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-110, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-110, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-110, filed 4/15/83. Statutory Authority: RCW 70.94.331, 70.94.510, and 70.94.785. 81-03-002 (Order DE 80-53), § 173-400-110, filed 1/8/81. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-110, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-110, filed 5/8/79; Order DE 76-38, § 173-400-110, filed 12/21/76. Formerly WAC 18-04-110.]

WAC 173-400-112 Requirements for new sources in nonattainment areas. (1) **Definitions.** The following definitions apply to this section:

(a) **"Major modification,"** for the purposes of WAC 173-400-112, means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Federal Clean Air Act.

(i) Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material by reason of an order under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order or rule under section 125 of the Federal Clean Air Act;

(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(E) Use of an alternative fuel or raw material by a source which:

(I) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit or approval order condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation; or

(II) The source is approved to use under any permit or approval order issued under WAC 173-400-112;

(iii) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit or approval order condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation.

(iv) Any change in ownership at a source.

(v) The addition, replacement, or use of a pollution control project (as defined in 40 CFR 51.165 (a)(1)(xxv), in effect on July 1, 2001) at an existing electric utility steam generating unit, unless the permitting authority determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(A) When the permitting authority has reason to believe that the pollution control project would result in a significant net emissions increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of title I of the Federal Clean Air Act, if any; and

(B) The permitting authority determines that the increase will cause or contribute to a violation of any National Ambient Air Quality Standard or PSD increment, or visibility limitation.

(vi) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(A) The SIP; and

(B) Other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.

(b) **"Major stationary source,"** for the purposes of WAC 173-400-112, means:

(i) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Federal Clean Air Act, except that lower emissions thresholds shall apply as follows:

(A) 70 tons per year of PM-10 in any "serious" nonattainment area for PM-10.

(B) 50 tons per year of carbon monoxide in any "serious" nonattainment area for carbon monoxide where stationary sources contribute significantly to carbon monoxide levels in the area.

(ii) Any physical change that would occur at a stationary source not qualifying under (b)(i) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself.

(iii) A major stationary source that is major for volatile organic compounds or NOx shall be considered major for ozone.

(iv) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources or the source is a major stationary source due to

(b)(i)(A) or (b)(i)(B) of this subsection:

- (A) Coal cleaning plants (with thermal dryers);
- (B) Kraft pulp mills;
- (C) Portland cement plants;
- (D) Primary zinc smelters;
- (E) Iron and steel mills;
- (F) Primary aluminum ore reduction plants;
- (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than 50 tons of refuse per day;
- (I) Hydrofluoric, sulfuric, or nitric acid plants;
- (J) Petroleum refineries;
- (K) Lime plants;
- (L) Phosphate rock processing plants;
- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants;
- (U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (W) Taconite ore processing plants;
- (X) Glass fiber processing plants;
- (Y) Charcoal production plants;
- (Z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
- (AA) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act.

(c) **"Net emissions increase,"** for the purposes of WAC 173-400-112, means:

(i) The amount by which the sum of the following exceeds zero:

(A) Any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(B) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if:

(A) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit (ERC). Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.

(B) The permitting authority has not relied on it in issuing any permit or order of approval for the source under this section or a previous SIP approved nonattainment area new source review regulation, which order or permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(v) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is federally enforceable at and after the time that actual construction on the particular change begins;

(C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(D) The permitting authority has not relied on it in issuing any permit or order of approval under this section or a SIP approved nonattainment area new source review regulation; or the permitting authority has not relied on it in demonstrating attainment or reasonable further progress.

(vi) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(d) **"Significant,"** for purposes of WAC 173-400-112, means, in reference to a net emissions increase or the potential of a major stationary source to emit any of the following pollutants,

a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Volatile organic compounds:	40 tpy
Lead:	0.6 tpy
PM-10:	15 tpy

(e) **"Stationary source"** and **"source"** for the purposes of WAC 173-400-112 means any building, structure, facility or installation which emits or may emit a regulated NSR pollutant. A stationary source (or source) does not include emissions resulting directly for an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the Federal Clean Air Act.

(f) **"Building, structure facility or installation"** means for the purposes of WAC 173-400-112, all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual*, as amended by the 1977 supplement.

(2) The permitting authority that is reviewing an application to establish a new source in a nonattainment area shall issue the order of approval if it determines that the proposed project satisfies each of the following requirements:

(a) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(b) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the air contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.

(c) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the SIP and will comply with WAC 173-400-113(3) for all air contaminants for which the area has not been designated nonattainment.

(d) If the proposed new source is a major stationary source or the proposed modification is a major modification, the

permitting authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(e) If the proposed new source or the proposed modification is major for the air contaminant for which the area is designated nonattainment, allowable emissions from the proposed new source or modification of that air contaminant are offset by reductions in actual emissions from existing sources in the nonattainment area. Emission offsets must be sufficient to ensure that total allowable emissions from existing major stationary sources in the nonattainment area, new or modified sources which are not major stationary sources, and the proposed new or modified source will be less than total actual emissions from existing sources (before submitting the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the Federal Clean Air Act) reasonable further progress. All offsetting emission reductions must satisfy the following requirements:

(i) The proposed new level of allowable emissions of the source or emissions unit(s) providing the reduction must be less than the current level of actual emissions of that source or emissions unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders, or permits required by the Federal Clean Air Act, including the SIP, cannot be credited.

(ii) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emissions of volatile organic compounds or total emissions of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the new source is located. For any other nonattainment area, the emissions offsets must provide a positive net air quality benefit in the nonattainment area. Determinations on whether emissions offsets provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S (in effect on July 1, 2004).

(iii) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the order of approval for the new or modified source is effective. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.

(f) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable

emission limitations and standards under the Federal Clean Air Act, including all rules in the SIP.

(g) If the proposed new source is a major stationary source within the meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, it meets the requirements of the PSD program in WAC 173-400-720 for all air contaminants for which the area has not been designated nonattainment.

(h) If the proposed new source or modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that chapter.

(i) If the proposed new source is a major stationary source within the meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, the project meets the special protection requirements for federal Class I areas in WAC 173-400-117.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-112, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-112, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-112, filed 8/20/93, effective 9/20/93.]

WAC 173-400-113 Requirements for new sources in attainment or unclassifiable areas. The permitting authority that is reviewing an application to establish a new source or modification in an attainment or unclassifiable area shall issue an order of approval if it determines that the proposed project satisfies each of the following requirements:

(1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.

(3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-		0.5 mg/m ³	-	2 mg/m ³
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30 µg/m ³
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification, it meets all applicable requirements of WAC 173-400-720 through 173-400-750.

(5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that program.

(6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the project meets the special protection requirements for federal Class I areas of WAC 173-400-117.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-113, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-113, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-113, filed 8/20/93, effective 9/20/93.]

WAC 173-400-114 Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.

(1) Any **person** proposing to replace or substantially alter the **emission** control technology installed on an existing **stationary source** or **emission unit** shall file a **notice of construction application** with the appropriate **authority**, or with **ecology** in areas or for **sources** over which **ecology** has jurisdiction. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

(2) For projects not otherwise reviewable under WAC 173-400-110, **ecology** or the **authority** may:

(a) Require that the owner or operator employ **RACT** for the affected **emission unit**;

(b) Prescribe reasonable operation and maintenance conditions for the control equipment; and

(c) Prescribe other requirements as authorized by chapter 70.94 RCW.

(3) Within thirty days of receipt of a **notice of construction application** under this section **ecology** or the **authority** shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application.

Within thirty days of receipt of a complete **notice of construction application** under this section **ecology** or the **authority** shall either issue an **order of approval** or a proposed **RACT** determination for the proposed project.

(4) Construction shall not "**commence**," as defined in WAC 173-400-030, on a project subject to review under this section until **ecology** or the **authority** issues a final **order of approval**. However, any **notice of construction application** filed under this section shall be deemed to be approved without conditions if **ecology** or the **authority** takes no action within thirty days of receipt of a complete **notice of construction application**.

(5) Approval to replace or substantially alter **emission** control technology shall become invalid if construction is not **commenced** within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. **Ecology** or the **authority** may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

[Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-114, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-114, filed 8/20/93, effective 9/20/93.]

WAC 173-400-115 Standards of performance for new sources.
NSPS. Standards of performance for new sources are called New Source Performance Standards, or NSPS.

(1) **Adoption by reference.**

(a) 40 CFR Part 60 and Appendices in effect on July 1, 2004, is adopted by reference. Exceptions are listed in subsection (1)(b) of this section.

The following list of subparts to 40 CFR Part 60 which are shown as blank or reserved in the Code of Federal Regulations as of the date listed above, is provided for informational purposes only:

40 CFR Part 60, subparts FF, II, JJ, OO, YY, ZZ, CCC, EEE, MMM, XXX, YYY, ZZZ, Appendix E, and Appendix H.

(b) Exceptions to adopting 40 CFR Part 60 by reference.

(i) The term "administrator" in 40 CFR Part 60 includes the permitting authority.

(ii) The following sections and subparts of 40 CFR Part 60 are not adopted by reference:

(A) 40 CFR 60.5 (determination of construction or modification);

(B) 40 CFR 60.6 (review of plans);

(C) 40 CFR Part 60, subpart B (Adoption and Submittal of

State Plans for Designated Facilities), and subparts C, Cb, Cc, Cd, Ce, BBBB, and DDDD (emission guidelines); and

(D) 40 CFR Part 60, Appendix G, Provisions for an Alternative Method of Demonstrating Compliance With 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company.

(2) Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Part 60, from the affected facility in lieu of providing such report to EPA, the affected facility is required to provide such reports only to the permitting authority unless otherwise requested in writing by the permitting authority or EPA.

Note: Under RCW 80.50.020(14), larger energy facilities subject to subparts D, Da, GG, J, K, Kb, Y, KKK, LLL, and QQQ are regulated by the energy facility site evaluation council (EFSEC).

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-115, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-115, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-115, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.785. 98-22-019 (Order 98-02), § 173-400-115, filed 10/23/98, effective 11/23/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-115, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), § 173-400-115, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), § 173-400-115, filed 2/19/91, effective 3/22/91. Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-115, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-115, filed 4/15/83; 82-16-019 (Order DE 82-20), § 173-400-115, filed 7/27/82. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-115, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-115, filed 5/8/79; Order DE 76-38, § 173-400-115, filed 12/21/76. Formerly WAC 18-04-115.]

WAC 173-400-116 New source review fees. (1) Applicability. Every person required to submit a notice of construction application to the department of ecology as authorized in RCW 70.94.152 for establishment of any proposed new source or emissions unit(s) shall pay fees as set forth in subsections (2) and (3) of this section. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee as required by the local permitting authority. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee to ecology to cover the costs of review pursuant to WAC 173-400-720, second tier analysis pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3) of this section. Fees assessed under this section shall

apply without regard to whether an order of approval is issued or denied.

(2) **Basic review fees.** All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, BACT determination, technical review, public involvement and approval/denial orders. Complexity determination shall be based on the project described in the notice of construction application. The basic review fees are either (a) or (b) below:

(a) Basic new source review fees.

Source type	Clarifying criteria	Fee
Basic Review Fees		
Low complexity source	Emissions increase of individual pollutants are all less than one-half of the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of individual toxic air pollutants are all less than 2.0 tons/year	\$1250
Moderate complexity	Emissions increase of one or more individual pollutants are greater than one-half of, and less than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year	\$8000
High complexity	Emissions increase of one or more pollutants are greater than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions increase of one or more toxic air pollutants are greater than ten tons/year	\$18,000

(b) New source review fees for specific source categories.

Source type	Clarifying criteria	Fee
Dry cleaners		\$250
Gasoline stations		\$250

Source type		Clarifying criteria	Fee
Storage tanks			
	< 20,000 gallons		\$250
	20,000 - 100,000 gallons		\$650
	> 100,000 gallons		\$900
Chromic acid plating and anodizing identified in WAC 173-460-060			\$250
Solvent metal cleaners identified in WAC 173-460-060			\$250
Abrasive blasting identified in WAC 173-460-060			\$250
New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 173-401 WAC source or nonchapter 173-401 WAC source			\$250
Application for coverage under a general order of approval		WAC 173-400-560 and criteria included in a specific general order of approval	\$500
Nonroad engines			
Less than a total of 500 installed horsepower			\$500
More than 500 horsepower and less than a total of 2000 installed horsepower			\$900
More than 2000 horsepower and less than a total of 5000 installed horsepower			\$2000
More than 5000 horsepower and less than a total of 10,000 installed horsepower			\$4000
More than a total of 10,000 installed horsepower			\$7500

(c) Additional units. An owner or operator proposing to build more than one identical emission unit shall be charged a

fee for the additional units equal to one-third the basic review fee of the first unit.

(3) **Additional charges.** In addition to those fees required under subsection (2)(a) through (c) of this section, the following fees will be required as applicable:

(a) Major NSR actions under WAC 173-400-720 and 173-400-112.

Activity	Clarifying criteria	Fee
Prevention of significant deterioration review or increase in a PAL limitation	WAC 173-400-720	\$15,000
Establishing LAER and offset requirements	WAC 173-400-112	\$10,000
Establishing or renewal of clean unit status	Per 40 CFR 52.21(y)	\$1500
Pollution control project approval	Per 40 CFR 52.21(z)	\$1500
Establishment of a PAL	Per 40 CFR 52.21(aa)	\$4000
Renewal of a PAL	Per 40 CFR 52.21(aa)	\$4000
Expiration of a PAL	Per 40 CFR 52.21(aa)	\$12,000
PSD permit revisions		
All except administrative	WAC 173-400-750	\$10,000
Administrative revisions	WAC 173-400-750	\$1500

(b) Other actions.

Activity		Fee
Tier II toxic air pollutant impact review		\$10,000
Tier III toxic air pollutant impact review		\$10,000
Case-by-case MACT determinations		\$12,500

Activity		Fee
Fossil fueled electric generating unit	Applicability criteria found in chapter 80.70 RCW	Fees listed in rule implementing RCW 70.94.892 and chapter 80.70 RCW
Changes to existing orders of approval, Tier I review, Tier II review, or other action identified above.		
Activity		Fee
Modification to order of approval		50% of the fee charged in WAC 173-400-116 (2)(a)
Modification of Tier II approval		50% of the fee charged in WAC 173-400-116 (2)(b)

(4) **Small business fee reduction.** The new source review fee identified in subsections (2) and (3) of this section may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020. In RCW 19.85.020, "small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

(i) By an authorized corporate officer in the case of a corporation;

(ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.

(c) Ecology may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:

(i) Fifty percent of the new source review fee; or

(ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee

reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce the fees defined in subsections (2) and (3) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

(6) Fee payments. Fees specified in subsections (2) through (5) of this section shall be paid at the time a notice of construction application is submitted to the department. A notice of construction application is considered incomplete until ecology has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) of this section shall be due thirty days after receipt of an ecology billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology.

(7) Dedicated account. All new source review fees collected by the department shall be deposited in the air pollution control account.

(8) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of complexity categories.

(9) Periodic review. Ecology shall review and, as appropriate, update this section at least once every two years.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-116, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-116, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-116, filed 9/13/96, effective 10/14/96. Statutory Authority: RCW 70.94.153 and 70.94.154. 94-17-070, § 173-400-116, filed 8/15/94, effective 9/15/94.]

WAC 173-400-117 Special protection requirements for federal Class I areas. (1) **Definitions.** The following definitions apply to this section:

(a) **"Adverse impact on visibility"** means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the federal Class I area. This determination must be made on a

case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with:

- (i) Times of visitor use of the federal Class I area; and
- (ii) The frequency and timing of natural conditions that reduce visibility.

(b) The terms "major stationary source," "major modification," and "net emissions increase" are as provided in WAC 173-400-720.

(2) **Applicability.** The requirements of this section apply to all of the following permitting actions:

- (a) A PSD permit application for a new major stationary source or a major modification; or

- (b) Submittal of a notice of construction application for a major stationary source or a major modification to a stationary source in a nonattainment area, as either of those terms are defined in WAC 173-400-720.

(3) **Contents and distribution of application.**

- (a) The application shall include an analysis of the anticipated impacts of the project on visibility in any federal Class I area.

- (b) The applicant must mail a copy of the application for the project and all amendments to the application to the permitting authority, EPA and to the responsible federal land managers. Ecology will provide a list of the names and addresses of the federal land manager.

(4) **Notice to federal land manager.**

- (a) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

- (b) If, prior to receiving a notice of construction application or a PSD permit application, the permitting authority receives notice of a project described in subsection (2) of this section that may affect visibility in a federal Class I area, the permitting authority shall notify the responsible federal land manager within thirty days of the notification.

(5) **Analysis by federal land manager.**

- (a) The permitting authority will consider any demonstration presented by the responsible federal land manager that emissions from a proposed new major stationary source or the net emissions increase from a proposed major modification described in subsection (2) of this section would have an adverse impact on visibility in any federal Class I area, provided that the demonstration is received by the permitting authority within thirty days of the federal land manager's receipt of the complete application.

- (b) If the permitting authority concurs with the federal land manager's demonstration, the PSD permit or approval order for the project either shall be denied, or conditions shall be included in the approval order to prevent the adverse impact.

- (c) If the permitting authority finds that the federal land manager's analysis does not demonstrate that the project will have an adverse impact on visibility in a federal Class I area,

the permitting authority either shall explain its decision in the public notice required by WAC 173-400-730, or, in the case of public notice of proposed action on a PSD permit application, state that an explanation of the decision appears in the Technical Support Document for the proposed permit.

(6) Additional requirements for projects that require a PSD permit.

(a) For sources impacting federal Class I areas, the permitting authority shall provide notice to EPA of every action related to consideration of the PSD permit.

(b) The permitting authority shall consider any demonstration received from the responsible federal land manager prior to the close of the public comment period on a proposed PSD permit that emissions from the proposed new major stationary source or the net emissions increase from a proposed major modification would have an adverse impact on the air quality-related values (including visibility) of any mandatory Class I federal area.

(c) If the permitting authority concurs with the demonstration, the PSD permit either shall be denied, or conditions shall be included in the PSD permit to prevent the adverse impact.

(7) Additional requirements for projects located in nonattainment areas. In reviewing a PSD permit application or notice of construction application for a new major stationary source or major modification proposed for construction in an area classified as nonattainment, the permitting authority must ensure that the source's emissions will be consistent with making reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility by human-caused air pollution in mandatory Class I federal areas. In determining the need for approval order conditions to meet this requirement, the permitting authority may take into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

(8) Monitoring. The permitting authority may require post-construction monitoring of the impact from the project. The monitoring shall be limited to the impacts on visibility in any federal Class I area near the proposed project.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-117, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-117, filed 8/15/01, effective 9/15/01.]

WAC 173-400-118 Designation of Class I, II, and III areas.
(1) Designation.

(a) Lands within the exterior boundaries of Indian reservations may be proposed for redesignation by an Indian governing body or EPA. This restriction does not apply to

nontrust lands within the 1873 Survey Area of the Puyallup Indian Reservation.

(b) All areas of the state must be designated either Class I, II or III.

(i) The following areas are the Class I areas in Washington state:

- (A) Alpine Lakes Wilderness;
- (B) Glacier Peak Wilderness;
- (C) Goat Rocks Wilderness;
- (D) Adams Wilderness;
- (E) Mount Rainier National Park;
- (F) North Cascades National Park;
- (G) Olympic National Park;
- (H) Pasayten Wilderness; and
- (I) Spokane Indian Reservation.¹

(ii) All other areas of the state are Class II, but may be redesignated as provided in subsections (2) and (3) of this section.

¹. EPA redesignated this land based on a request from the Spokane Tribal Council. See 40 CFR 52.2497 and 56 FR 14862, April 12, 1991, for details.

(2) Restrictions on area classifications.

(a) Except for the Spokane Indian Reservation, the Class I areas listed in subsection (1) of this section may not be redesignated.

(b) Except as provided in (a) of this subsection, the following areas that exceed 10,000 acres in size may be redesignated as Class I or II:

(i) Areas in existence on August 7, 1977:

- (A) A national monument;
- (B) A national primitive area;
- (C) A national preserve;
- (D) A national wild and scenic river;
- (E) A national wildlife refuge;
- (F) A national lakeshore or seashore; or
- (G) A national recreation area.

(ii) Areas established after August 7, 1977:

- (A) A national park;
- (B) A national wilderness area; or
- (C) Areas proposed by ecology for designation or

redesignation.

(3) Redesignation of area classifications.

(a) Ecology shall propose the redesignation of an area classification as a revision to the SIP.

(b) Ecology may submit to EPA a proposal to redesignate areas of the state as Class I or II if:

(i) Ecology followed the public involvement procedures in WAC 173-400-171;

(ii) Ecology explained the reasons for the proposed redesignation, including a description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation;

(iii) Ecology made available for public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation;

(iv) Ecology notified other states, tribal governing bodies, and federal land managers (as defined in 40 CFR 52.21 (b)(24)) whose lands may be affected by the proposed redesignation at least thirty days prior to the public hearing;

(v) Ecology consulted with the elected leadership of local governments in the area covered by the proposed redesignation before proposing the redesignation; and

(vi) Ecology followed these procedures when a redesignation includes any federal lands:

(A) Ecology notified in writing the appropriate federal land manager on the proposed redesignation. Ecology allowed forty-five days for the federal land manager to confer with ecology and to submit written comments.

(B) Ecology responded to any written comments from the federal land manager that were received within forty-five days of notification. Ecology's response was available to the public in advance of the notice of the hearing.

(I) Ecology sent the written comments of the federal land manager, along with ecology's response to those comments, to the public location as required in WAC 173-400-171 (2)(a).

(II) If ecology disagreed with the federal land manager's written comments, ecology published a list of any inconsistency between the redesignation and the comments of the federal land manager, together with the reasons for making the redesignation against the recommendation of the federal land manager.

(c) Ecology may submit to EPA a proposal to redesignate any area other than an area to which subsection (1) of this section applies as Class III if:

(i) The redesignation followed the public involvement requirements of WAC 173-400-171 and 173-400-118(3);

(ii) The redesignation has been specifically approved by the governor of Washington state, after consultation with the appropriate committees of the legislature if it is in session, or with the leadership of the legislature, if it is not in session;

(iii) The redesignation has been approved by local governments representing a majority of the residents of the area to be redesignated. The local governments enacted legislation or passed resolutions concurring in the redesignation;

(iv) The redesignation would not cause, or contribute to, a concentration of any air contaminant which would exceed any maximum allowable increase permitted under the classification of any other area or any National Ambient Air Quality Standard; and

(v) A PSD permit under WAC 173-400-720 for a new major stationary source or major modification could be issued only if the area in question were redesignated as Class III, and material submitted as part of that application was available for public inspection prior to any public hearing on redesignation of the area as Class III.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-118, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-118, filed 8/15/01, effective 9/15/01.]

WAC 173-400-120 Bubble rules. (1) Applicability. The owner(s) or operator(s) of any source(s) may apply for a bubble for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.

(2) Conditions. A bubble may be authorized provided the following conditions have been demonstrated to the satisfaction of the permitting authority.

(a) The contaminants exchanged must be of the same type, that is, PM₁₀ for PM₁₀, sulfur dioxide for sulfur dioxide, etc.

(b) The bubble will not interfere with the attainment and maintenance of air quality standards. No bubble shall be authorized in a nonattainment area unless there is an EPA-approved SIP which demonstrates attainment for that area.

(c) The bubble will not result in a delay in compliance by any source, nor a delay in any existing enforcement action.

(d) The bubble will not supersede NSPS, NESHAPS, BACT, or LAER. The emissions of hazardous contaminants shall not be increased.

(e) The bubble will not result in an increase in the sum of actual emission rates of the contaminant involved from the emissions units involved.

(f) A bubble may not be authorized only for opacity limits. However, if the emission limit for particulates for a given emissions unit is increased as part of a bubble, the opacity limit for the given emissions unit may be increased subject to the following limitations:

(i) The new opacity limit shall be specific for the given emissions unit;

(ii) The new opacity limit shall be consistent with the new particulates limit;

(iii) An opacity greater than sixty percent shall never be authorized;

(iv) If the given emissions unit emits or has the potential to emit one hundred tons per year or more of particulate matter, the opacity shall be monitored continuously.

(g) The emission limits of the bubble are equivalent to existing limits in enforceability.

(h) Concurrent with or prior to the authorization of a bubble, each emission unit involved in a bubble shall receive or have received a regulatory order or permit that establishes total allowable emissions from the source for the contaminant being bubbled, expressed as weight of the contaminant per unit time.

(i) There will be no net adverse impact upon air quality from the establishment of new emission requirements for a specific source or emissions unit. Determination of net adverse impact shall include but not be limited to public perception of opacity and public perception of odorous contaminants.

(j) Specific situations may require additional demonstration as requested by the permitting authority.

(3) Jurisdiction. Whenever a bubble application involves

emissions units, some of which are under the jurisdiction of an authority, approval will require concurrence by both authorities. The new emission limits for each emissions unit will be enforced by the authority of original jurisdiction.

(4) Additional information. Within thirty days, after the receipt of a bubble application and all supporting data and documentation, the permitting authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all the required information has been received, the permitting authority shall approve or deny the application, based on a finding that conditions in subsection (2)(a) through (j) of this section have been satisfied or not. If the application is approved, a regulatory order or equivalent document shall be issued which includes new allowable emissions limits expressed in weight of pollutant per unit time for each emissions unit affected by the bubble. The regulatory order or equivalent document shall include any conditions required to assure that subsection (2)(a) through (j) of this section will be satisfied. If the bubble depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment. The regulatory order establishing the bubble is subject to the public involvement requirements of WAC 173-400-171.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-120, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-120, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-120, filed 2/19/91, effective 3/22/91. Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), § 173-400-120, filed 1/3/89; 83-09-036 (Order DE 83-13), § 173-400-120, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-120, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-120, filed 5/8/79; Order DE 76-38, § 173-400-120, filed 12/21/76. Formerly WAC 18-04-120.]

WAC 173-400-131 Issuance of emission reduction credits.

(1) **Applicability.** The owner or operator of any source may apply to the permitting authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.

(2) **Time of application.** The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.

(3) **Conditions.** An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction

of the permitting authority.

(a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices, etc.

(c) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved.

(d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under WAC 173-400-112 (2)(d), nor as part of a bubble transaction under WAC 173-400-120, nor to satisfy NSPS, NESHAPS, for Source Categories, BACT, or LAER.

(e) Concurrent with or prior to the authorization of an ERC, the applicant shall receive (have received) a regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.

(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) **Additional information.** Within thirty days after the receipt of an ERC application and all supporting data and documentation, the permitting authority may require the submission of additional information needed to review the application.

(5) **Approval.** Within thirty days after all required information has been received, the permitting authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this section have been satisfied or not. If the application is approved, the permitting authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document shall include any conditions required to assure that subsection (3)(a) through (e) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and

(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminants involved, the emission decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-131, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-131, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-131, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-131, filed 2/19/91, effective 3/22/91.]

WAC 173-400-136 Use of emission reduction credits (ERC).

(1) **Permissible use.** An ERC may be used to satisfy the requirements for authorization of a bubble under WAC 173-400-120; as a part of a determination of "net emissions increase;" or as an offsetting reduction to satisfy the requirements for new source review in WAC 173-400-112 or 173-400-113(3).

(2) **Surrender of ERC certificate.** When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the permitting authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) **Conditions of use.**

(a) An ERC may be used only for the air contaminants for which it was issued.

(b) The permitting authority may impose additional conditions of use to account for temporal and spatial differences between the emissions units that generated the ERC and the emissions units that use the ERC.

(4) **Sale of an ERC.** An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of ownership, the certificate must be surrendered to the issuing authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.

(5) **Redemption period.** An unused ERC expires ten years after date of original issue.

(6) **Discount due to change in SIP.** If reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the permitting authority after public involvement according to WAC 173-400-171. This discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-136, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-136, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-136, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-136, filed 2/19/91, effective 3/22/91.]

WAC 173-400-151 Retrofit requirements for visibility protection. (1) The requirements of this section apply to an existing stationary facility. An "existing stationary facility" means a stationary source of air contaminants that meets all of these conditions:

(a) The stationary source must have the potential to emit 250 tons per year or more of any air contaminant. Fugitive emissions, to the extent quantifiable, must be counted in determining the potential to emit; and

(b) The stationary source was not in operation prior to August 7, 1962, and was in existence on August 7, 1977; and

(c) Is in one of the following 26 source categories:

Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input,	Coke oven batteries,
Coal cleaning plants (thermal dryers),	Sulfur recovery plants,
Kraft pulp mills,	Carbon black plants (furnace process),
Portland cement plants,	Primary lead smelters,
Primary zinc smelters,	Fuel conversion plants,
Iron and steel mill plants,	Sintering plants,
Primary aluminum ore reduction plants,	Secondary metal production facilities,
Primary copper smelters,	Chemical process plants,
Municipal incinerators capable of charging more than 250 tons of refuse per day,	Fossil-fuel boilers of more than 250 million British thermal units per hour heat input,
Hydrofluoric, sulfuric, and nitric acid plants,	Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
Petroleum refineries,	Taconite ore processing facilities,
Lime plants,	Glass fiber processing plants, and
Phosphate rock processing plants,	Charcoal production facilities.

(d) For purposes of determining whether a stationary source is an existing stationary facility, the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended in the 1977 supplement.

(2) Ecology shall identify each existing stationary facility which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class 1 federal area in Washington and any adjacent state.

(3) For each existing stationary facility identified under subsection (2) of this section, ecology, in consultation with the permitting authority shall determine BART for each air contaminant of concern and any additional air pollution control technologies that are to be required to reduce impairment from the existing stationary facility.

(4) Each existing stationary facility shall apply BART as new technology for control of the air contaminant becomes reasonably available if:

(a) The existing stationary facility emits the air contaminant contributing to visibility impairment;

(b) Controls representing BART for that air contaminant have not previously been required under this section; and

(c) The impairment of visibility in any mandatory Class 1 federal area is reasonably attributable to the emissions of the air contaminant.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-151, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-151, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-151, filed 2/19/91, effective 3/22/91.]

WAC 173-400-161 Compliance schedules. (1) Issuance. Whenever a source is found to be in violation of an emission standard or other provision of this chapter, ecology or the authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule. Requirements for public involvement (WAC 173-400-171) must be met.

(2) **Federal action.** A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.

(3) **Penalties for delayed compliance.** Sources on a compliance schedule but not meeting emissions standards may be subject to penalties as provided in the Federal Clean Air Act.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-161, filed 2/19/91, effective 3/22/91.]

WAC 173-400-171 Public involvement. (1) Internet notification of receipt of an application.

(a) For applications and actions not subject to a mandatory public notice and comment period per subsection (2)(a) of this section, the permitting authority will either:

(i) Post on the permitting authority's internet website an announcement of the receipt of notice of construction applications and other proposed actions; or

(ii) Follow the public involvement process found in subsection (3) of this section.

(b) For internet notification, notice shall remain on the permitting authority's website for a minimum of fifteen consecutive days. The internet posting shall include notice of the receipt of the application, the type of proposed action, and a statement that the public may request a public comment period on the proposed action.

(c) Requests for a public comment period shall be submitted to the permitting authority in writing via letter, fax, or electronic mail within fifteen days of its internet posting. A public notice and comment period shall be provided pursuant to subsections (3) and (4) of this section for any application or proposed action that receives such a request. Any application or proposed action for which a public comment period is not requested may be processed without further public involvement at the end of the fifteen-day comment period.

(d) Any application or proposed action that automatically requires a public comment period pursuant to subsection (2) of this section or for which the agency proposes to have a public comment period does not have to be announced on the permitting authorities' internet website.

(2) Actions subject to public notice and comment.

(a) The permitting authority must provide public notice and a public comment period before approving or denying any of the following types of applications or other actions:

(i) Notice of construction application for any new or modified source, including the initial application for operation of a portable source, if an increase in emissions of any air pollutant at a rate above the emission threshold rate (defined in WAC 173-400-030) or any increase in a pollutant regulated under chapter 173-460 WAC which will increase above the small quantity emission rate listed in WAC 173-460-080 (2)(e) would result; or

(ii) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2004) as part of review under WAC 173-400-110, 173-400-112, 173-400-113, 173-400-117, or 173-400-720; or

(iii) Any order to determine RACT; or

(iv) An order to establish a compliance schedule or a variance; or

(v) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or

(vi) An order to authorize a bubble; or

(vii) Any action to discount the value of an ERC issued to a

source per WAC 173-400-136(6); or

(viii) Any regulatory order to establish BART for an existing stationary facility; or

(ix) Notice of construction application or regulatory order used to establish a creditable emission reduction; or

(x) An order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit; or

(xi) The original issuance and the issuance of all revisions to a general order of approval issued under WAC 173-400-560; or

(xii) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area; or

(xiii) Exception. PSD actions, including actions taken to avoid PSD applicability, under WAC 173-400-730 and 173-400-740 are not required to follow the procedures in this section. The public involvement for these projects shall follow the procedures in WAC 173-400-730(4) and 173-400-740.

(b) Ecology must provide notice on the following ecology only actions:

(i) A Washington state recommendation that will be submitted by the director of ecology to EPA for approval of a SIP revision, including plans for attainment, maintenance, and visibility protection; or

(ii) A Washington state recommendation to EPA for designation or redesignation of an area as attainment, nonattainment, or unclassifiable; or

(iii) A Washington state recommendation to EPA for a change of boundaries of an attainment or nonattainment area; or

(iv) A Washington state recommendation to EPA for redesignation of an area under WAC 173-400-118.

(c) The permitting authority will provide public notice before approving or denying any application or other action for which the permitting authority determines there is substantial public interest.

(d) A notice of construction application designated for integrated review with an application to issue or modify an operating permit shall be processed in accordance with the operating permit program procedures and deadlines. A project designated for integrated review that includes a notice of construction application for a major modification in a nonattainment area, or a notice of construction application for a major stationary source in a nonattainment area must also comply with public notice requirements in this section. A project designated for integrated review that includes a PSD permit application must also comply with the requirements in WAC 173-400-730 and 173-400-740.

(3) **Public notice.** Public notice shall be made only after all information required by the permitting authority has been submitted and after applicable preliminary determinations, if any, have been made. The applicant or other initiator of the action must pay the cost of providing public notice. Public notice shall include:

(a) Availability for public inspection. The information submitted by the applicant, and any applicable preliminary

determinations, including analyses of the effects on air quality, must be available for public inspection in at least one location near the proposed project. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(i) For a redesignation of a class II area under WAC 173-400-118, ecology must make available for public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation.

(ii) For a revision of the SIP subject to subsection (2)(b)(iii) of this section, ecology must make available for public inspection the information related to the action at least thirty days before the hearing.

(b) Newspaper publication. Public notice of the proposed project must be published in a newspaper of general circulation in the area of the proposed project and must include:

(i) The name and address of the owner or operator and the facility;

(ii) A brief description of the proposal;

(iii) The location of the documents made available for public inspection;

(iv) A thirty-day period for submitting written comment to the permitting authority;

(v) A statement that a public hearing may be held if the permitting authority determines within a thirty-day period that significant public interest exists or for those actions listed in WAC 173-400-171 (5)(b) with a mandatory public hearing requirement, the time, date, and location of the public hearing.

(vi) The length of the public comment period in the event of a public hearing;

(vii) For projects subject to special protection requirements for federal Class I areas in WAC 173-400-117 (5)(c), public notice shall either explain the permitting authority's decision or state that an explanation of the decision appears in the support document for the proposed order of approval; and

(viii) For a redesignation of an area under WAC 173-400-118, public notice shall state that an explanation of the reasons for the proposed redesignation is available for review at the public location.

(c) Notifying EPA. A copy of the public notice will be sent to the EPA Region 10 regional administrator.

(d) Additional public notice requirements for a SIP revision. For a revision to the SIP that is submitted by the director of ecology, ecology must publish the public notice required by subsection (3)(b) of this section in the *Washington State Register* in advance of the date of the public hearing.

(4) Public comment.

(a) The public comment period must be at least the thirty-day period for written comment specified in the public notice.

(b) If a public hearing is held, the public comment period must extend through the hearing date.

(c) The permitting authority shall make no final decision on any application or action of any type described in subsection (1)

of this section until the public comment period has ended and any comments received during the public comment period have been considered.

(5) Public hearings.

(a) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. A request must indicate the interest of the entity filing it and why a hearing is warranted. The permitting authority may hold a public hearing if it determines significant public interest exists. The permitting authority will determine the location, date, and time of the public hearing.

(b) Ecology must hold a hearing on the following ecology only actions:

(i) A Washington state recommendation to EPA that will be submitted by the director of ecology for approval of a SIP revision;

(ii) A Washington state recommendation to EPA for a change of boundaries of an attainment or nonattainment area;

(iii) A Washington state recommendation to EPA for designation of an area as attainment, nonattainment, or unclassifiable; and

(iv) A Washington state recommendation to EPA to redesignate an area under WAC 173-400-118.

(c) Ecology must provide at least thirty days prior notice of a hearing required under subsection (4)(b) of this section.

(6) Other requirements of law. Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-171, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-171, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-171, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-171, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-171, filed 2/19/91, effective 3/22/91.]

WAC 173-400-175 Public information. All information, except information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205, is available for public inspection at the issuing agency. This includes copies of notice of construction applications, orders, and applications to modify orders.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-175, filed 1/10/05, effective 2/10/05.]

WAC 173-400-180 Variance. Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to ecology for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) **Jurisdiction.** Sources in any area over which a local air pollution control authority has jurisdiction shall make application to that authority rather than ecology. Variances to state rules shall require ecology's approval prior to being issued by an authority. Ecology or the authority may grant such variance, but only after public involvement per WAC 173-400-171.

(2) **Full faith and credit.** Variances granted in compliance with state and federal laws by an authority for sources under their jurisdiction will be accepted as variances to this regulation.

(3) **EPA concurrence.** No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the USEPA.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-180, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-180, filed 2/19/91, effective 3/22/91.]

WAC 173-400-190 Requirements for nonattainment areas. The development of specific requirements for nonattainment areas shall include consultation with local government in the area and shall include public involvement per WAC 173-400-171.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-190, filed 2/19/91, effective 3/22/91.]

WAC 173-400-200 Creditable stack height and dispersion techniques. (1) Applicability. These provisions shall apply to all sources except:

(a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;

(b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;

(c) Flares;

(d) Outdoor burning for agricultural or silvicultural purposes as covered under the smoke management plan;

(e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual

stack height.

(2) Prohibitions. No source may use dispersion techniques or excess stack height to meet ambient air quality standards or PSD increment limitations.

(a) Excess stack height. Excess stack height is that portion of a stack which exceeds the greater of:

(i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or

(ii) $H_g = H + 1.5L$

where: H_g = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s), subject to the proviso below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

(b) Dispersion techniques. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:

(i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of gas streams where:

(A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner(s) or operator(s).

(B) Such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion shall apply only to the emission limitation for the pollutant affected by such change in operation.

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.

(3) Exception. EPA, ecology, or a permitting authority may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the EPA Guideline for Determination of Good Engineering Practice Height (Technical

Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(b) "Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to PSD review (WAC 173-400-720 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the state implementation plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-200, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-200, filed 2/19/91, effective 3/22/91.]

WAC 173-400-205 Adjustment for atmospheric conditions.

Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant is prohibited, except as directed according to air pollution episode regulations.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-205, filed 2/19/91, effective 3/22/91.]

WAC 173-400-210 Emission requirements of prior jurisdictions. Any emissions unit that was under the

jurisdiction of an authority and now is under the jurisdiction of ecology, shall meet all emission requirements that were applicable prior to transfer of jurisdiction if those standards are more stringent than the standards of this chapter or the specific chapter relating to that source.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-210, filed 2/19/91, effective 3/22/91.]

WAC 173-400-220 Requirements for board members. (1) **Public interest.** A majority of the members of any ecology or authority board shall represent the public interest. A majority of the members of such boards, shall not derive any significant portion of their income from persons subject to enforcement orders pursuant to the state and federal clean air acts. An elected public official and the board shall be presumed to represent the public interest. In the event that a member derives a significant portion of his/her income from persons subject to enforcement orders, he/she shall delegate sole responsibility for administration of any part of the program which involves these persons to an assistant.

(2) **Disclosure.** Each member of any ecology or authority board shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member shall remove themselves from participation as a board member in any action or voting on such matter.

(3) **Define significant income.** For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than Social Security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income."

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-220, filed 2/19/91, effective 3/22/91.]

WAC 173-400-230 Regulatory actions. Ecology may take any of the following regulatory actions to enforce this chapter to meet the provisions of RCW 43.21B.300 which is incorporated by reference.

(1) **Enforcement actions by ecology--Notice to violators.** At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and 70.94.431, the department of ecology shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation

thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, ecology may require that the alleged violator or violators appear before it for the purpose of providing ecology information pertaining to the violation or the charges complained of. Every notice of violation shall offer to the alleged violator an opportunity to meet with ecology prior to the commencement of enforcement action.

(2) Civil penalties.

(a) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70.94 or 70.120 RCW, or any of the rules in force under such chapters may incur a civil penalty in an amount as set forth in RCW 70.94.431. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty as set forth by RCW 70.94.431 for each day of continued noncompliance.

(b) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amounts established in RCW 70.94.431 may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(c) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(d) All penalties recovered under this section by ecology shall be paid into the state treasury and credited to the air pollution control account established in RCW 70.94.015 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by ecology under subsection (a) of this section shall be reduced by the amount of the payment.

(e) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(f) Public or private entities that are recipients or potential recipients of ecology grants, whether for air quality related activities or not, may have such grants rescinded or withheld by ecology for failure to comply with provisions of this chapter.

(g) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information

used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(3) **Assurance of discontinuance.** Personnel of ecology or an authority may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or any order issued thereunder which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) **Restraining orders, injunctions.** Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the director, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) **Emergency episodes.** Ecology may issue such orders as authorized by chapter 173-435 WAC via chapter 70.94 RCW, whenever an air pollution episode forecast is declared.

(6) **Compliance orders.** Ecology may issue a compliance order in conjunction with a notice of violation. The order shall require the recipient of the notice of violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated.

[Statutory Authority: Chapter 70.94 RCW. 93-05-044 (Order 92-34), § 173-400-230, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), § 173-400-230, filed 2/19/91, effective 3/22/91.]

WAC 173-400-240 Criminal penalties. Persons in violation of Title 173 WAC may be subject to the provisions of RCW 70.94.430.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-240, filed 2/19/91, effective 3/22/91.]

WAC 173-400-250 Appeals. Decisions and orders of ecology or an authority may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC.

[Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-250, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-250, filed 2/19/91, effective 3/22/91.]

WAC 173-400-260 Conflict of interest. All board members

and officials acting or voting on decisions affecting air pollution sources, must comply with the Federal Clean Air Act, as it pertains to conflict of interest, and 40 CFR 103(d) which is incorporated by reference.

[Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-260, filed 2/19/91, effective 3/22/91.]

WAC 173-400-560 General order of approval. In lieu of filing a notice of construction application under WAC 173-400-110, the owner or operator may apply for coverage under a general order of approval issued under this section. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) **Issuance of general orders of approval.** A permitting authority may issue a general order of approval applicable to a specific type of emission unit or source, not including nonroad engines as defined in section 216 of the Federal Clean Air Act, subject to the conditions in this section. A general order of approval shall identify criteria by which an emission unit or source may qualify for coverage under the associated general order of approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered emission unit or source. At a minimum, these terms and conditions shall include:

(a) Applicable emissions limitations and/or control requirements;

(b) Best available control technology;

(c) Appropriate operational restrictions, such as:

(i) Criteria related to the physical size of the unit(s) covered;

(ii) Criteria related to raw materials and fuels used;

(iii) Criteria related to allowed or prohibited locations; and

(iv) Other similar criteria determined by a permitting authority;

(d) Monitoring, reporting and recordkeeping requirements to ensure compliance with the applicable emission limits and control requirements;

(e) Appropriate initial and periodic emission testing requirements;

(f) Compliance with chapter 173-460 WAC, and WAC 173-400-112 (2)(c) or 173-400-113(3) as applicable;

(g) Compliance with 40 CFR Parts 60, 61, 62, and 63; and

(h) The application and approval process to obtain coverage under the specific general order of approval.

(2) **Public comment.** A permitting authority shall provide an opportunity for public comment on a proposed new general order of approval or modification of an existing general order of approval in accordance with WAC 173-400-171.

(3) **Modification of general orders of approval.** A permitting authority may review and modify a general order of

approval at any time. Only the permitting authority that issued a general order of approval may modify that general order of approval. Modifications to general orders of approval shall follow the procedures of this regulation and shall only take effect prospectively.

(4) Application for coverage under a general order of approval.

(a) In lieu of applying for an individual order of approval under WAC 173-400-110, an owner or operator of an emission unit or source may apply for and receive coverage from a permitting authority under a general order of approval if:

(i) The owner or operator of the emission unit or source applies for coverage under a general order of approval in accordance with this regulation and any conditions of the approval related to application for and granting coverage under the general order of approval;

(ii) The emission unit or source meets all the qualifications listed in the requested general order of approval;

(iii) The requested emission unit or source is not part of a new major stationary source or major modification subject to the requirements of WAC 173-400-112 or 173-400-720; and

(iv) The requested emission unit or source does not trigger applicability of the operating permit program under chapter 173-401 WAC or trigger a required modification of an existing operating permit.

(b) Owners or operators of emission units or sources applying for coverage under a general order of approval shall do so using the forms supplied by a permitting authority and include the required fee. The application must include all information necessary to determine qualification for, and to assure compliance with, a general order of approval.

(c) An application shall be incomplete until a permitting authority has received any required fees.

(d) The owner or operator of a new source or modification of an existing source that qualifies for coverage under a general order of approval may not begin actual construction of the new source or modification until its application for coverage has been approved or accepted under the procedures established in subsection (5) of this section.

(5) Processing applications for coverage under a general order of approval. Each general order of approval shall include a section on how an applicant is to request coverage and how the permitting authority will grant coverage. The section of the general order of approval will include either the method in (a) or (b) of this subsection to describe the process for the applicant to be granted coverage.

(a) Within thirty days of receipt of an application for coverage under a general order of approval, the permitting authority shall notify an applicant in writing that the application is incomplete, approved, or denied. If an application is incomplete, the permitting authority shall notify an applicant of the information needed to complete the application. If an application is denied, the permitting

authority shall notify an applicant of the reasons why the application is denied. Coverage under a general order of approval is effective as of the date of issuance of approval by the permitting authority.

(b) The applicant is approved for coverage under the general order of approval thirty-one days after an application for coverage is received by the permitting authority, unless the owner or operator receives a letter from the permitting authority, postmarked within thirty days of when the application for coverage was received by the permitting authority, notifying the owner or operator that the emissions unit or source does not qualify for coverage under the general order of approval. The letter denying coverage shall notify the applicant of the disqualification and the reasons why coverage is denied.

(6) **Termination of coverage under a general order of approval.** An owner or operator who has received approval of an application for coverage under a general order of approval may later request to be excluded from coverage under that general order of approval by applying to the same permitting authority for an individual order of approval, under WAC 173-400-110, or for coverage under another general order of approval. If the same permitting authority issues an individual order of approval or other permit or order serving the same purpose as the original general order of approval, or approves coverage under a different general order of approval, coverage under the original general order of approval is automatically terminated, effective on the effective date of the individual order of approval, order or permit or new general order of approval.

(7) **Failure to qualify or comply.** An owner or operator who requests and is granted approval for coverage under a general order of approval shall be subject to enforcement action for establishment of a new source in violation of WAC 173-400-110 a decision to grant coverage under a general order of approval was based upon erroneous information submitted by the applicant.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-560, filed 1/10/05, effective 2/10/05.]

PERMITTING OF MAJOR STATIONARY SOURCES AND MAJOR MODIFICATIONS TO MAJOR STATIONARY SOURCES

WAC 173-400-700 Review of major stationary sources of air pollution. (1) The following sections are to be used by ecology when reviewing and permitting new major stationary sources and major modifications to major stationary sources located in attainment or unclassified areas in Washington.

(2) WAC 173-400-700 through 173-400-750 apply statewide except:

(a) Where the authority has received delegation of the federal PSD program from EPA or has a SIP approved PSD program.

(b) To projects under the jurisdiction of the energy

facility site evaluation council site certification process pursuant to chapter 80.50 RCW.

(c) Applications or requests to designate an emissions unit as a Clean Unit under 40 CFR 52.21(y), to permit a Pollution Control Project under 40 CFR 52.21 (z)(5), or to establish an actual Plantwide Applicability Limit under 40 CFR 52.21(aa) shall be processed by the authority where the authority has received delegation from EPA to administer the relevant alternative PSD applicability tests.

(3) The construction of a major stationary source or major modification subject to the permitting requirements of the following section might also be subject to the permitting program in WAC 173-400-110.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-700, filed 1/10/05, effective 2/10/05.]

WAC 173-400-710 Definitions. (1) The definitions in WAC 173-400-030 are to be used in WAC 173-400-700 through 173-400-750 unless:

(a) A term is defined differently in WAC 173-400-710 for use in the major source permitting requirements in WAC 173-400-700 through 173-400-750; or

(b) A term is defined differently in the federal program requirements adopted by reference in WAC 173-400-720.

(2) All usage of the term "source" in WAC 173-400-710 through 173-400-750 and in 40 CFR 52.21 as adopted by reference is to be interpreted to mean "stationary source" as defined in 40 CFR 52.21 (b)(5) as modified by section 302(z) of the Federal Clean Air Act. A stationary source (or source) does not include emissions resulting directly from an internal combustion engine for transportation purposes from a nonroad engine or nonroad vehicle as defined in section 216 of the Federal Clean Air Act.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-710, filed 1/10/05, effective 2/10/05.]

WAC 173-400-720 Prevention of significant deterioration (PSD). (1) No major stationary source or major modification to which the requirements of this section apply shall begin actual construction without having received a PSD permit.

(2) **Early planning encouraged.** In order to develop an appropriate application, the source should engage in an early planning process to assess the needs of the facility. An opportunity for a preapplication meeting with ecology is available to any potential applicant.

(3) **Enforcement.** Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, shall:

(a) Receive all reports required in the PSD permit;

(b) Enforce the requirement to apply for a PSD permit when

one is required; and

(c) Enforce the conditions in the PSD permit.

(4) **Applicable requirements.**

(a) A PSD permit must assure compliance with the following requirements:

(i) Allowable emissions from the proposed major stationary source or major modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed major stationary source or the projected impact of the increase in allowable emissions from the proposed major modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-		0.5 mg/m ³	-	2 mg/m ³
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30 µg/m ³
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;

(iii) WAC 173-400-730 - Prevention of significant deterioration application processing;

(iv) WAC 173-400-740 - Prevention of significant deterioration public involvement requirements; and

(v) The following subparts of 40 CFR 52.21, in effect on July 2, 2004, which are adopted by reference. Exceptions are listed in (b)(i), (ii), and (iii) of this subsection:

Section	Title
40 CFR 52.21(a)(2)	Applicability Procedures.
40 CFR 52.21 (b)	Definitions.
40 CFR 52.21 (c)	Ambient air increments.
40 CFR 52.21 (d)	Ambient air ceilings.
40 CFR 52.21 (h)	Stack heights.
40 CFR 52.21 (i)	Review of major stationary sources and major modifications - source applicability and exemptions.
40 CFR 52.21 (j)	Control technology review.
40 CFR 52.21 (k)	Source impact analysis.
40 CFR 52.21 (l)	Air quality models.
40 CFR 52.21 (m)	Air quality analysis.
40 CFR 52.21 (n)	Source information.
40 CFR 52.21 (o)	Additional impact analysis.
40 CFR 52.21 (r)	Source obligation.
40 CFR 52.21 (v)	Innovative control technology.

40 CFR 52.21 (w)	Permit rescission.
40 CFR 52.21 (x)	Clean unit test for emission units subject to BACT or LAER.
40 CFR 52.21 (y)	Clean unit test for emission units that achieve an emission limitation comparable to BACT.
40 CFR 52.21 (z)	Pollution Control Project exclusion.
40 CFR 52.21 (aa)	Actuals Plantwide Applicability Limitation.
40 CFR 52.21 (bb)	Severability clause.
40 CFR 52.21 (cc)	Equipment replacement provisions.

(b) Exceptions to adopting 40 CFR 52.21 by reference.

(i) Every use of the word "administrator" in 40 CFR 52.21 means ecology except for the following:

(A) In 40 CFR 52.21 (b)(17), the definition of federally enforceable, "administrator" means the EPA administrator.

(B) In 40 CFR 52.21 (1)(2), air quality models, "administrator" means the EPA administrator.

(C) In 40 CFR 52.21 (b)(43) the definition of prevention of significant deterioration program, "administrator" means the EPA administrator.

(D) In 40 CFR 52.21 (b)(48)(ii)(c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.

(E) In 40 CFR 52.21 (b)(50)(i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.

(ii) Each reference in 40 CFR 52.21(i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (o) of this section, paragraph (r) of this section, WAC 173-400-117, 173-400-720, and 173-400-730."

(iii) The following paragraphs replace the designated paragraphs of 40 CFR 52.21:

(A) In 40 CFR 52.21 (b)(1)(i)(a) and (b)(1)(iii)(h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.

(B) 40 CFR 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.

(C) 40 CFR 52.21 (r)(6) "The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs 40 CFR 52.21 (b)(41)(ii)(a) through (c) for calculating projected actual emissions.

(i) Before beginning actual construction of the project, the

owner or operator shall document and maintain a record of the following information:

(A) A description of the project;

(B) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(C) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph 40 CFR 52.21 (b)(41)(ii)(c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(ii) The owner or operator shall submit a copy of the information set out in paragraph 40 CFR 52.21 (r)(6)(i) to the permitting authority before beginning actual construction. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this paragraph (r)(6)(ii) shall be construed to require the owner or operator of such a unit to obtain any PSD determination from the permitting authority before beginning actual construction.

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph 40 CFR 52.21 (r)(6)(i)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

(iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph 40 CFR 52.21 (r)(6)(iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph 40 CFR 52.21 (r)(6)(i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c)), by a significant amount (as defined in paragraph 40 CFR 52.21 (b)(23)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c). Such report shall be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:

(a) The name, address and telephone number of the major stationary source;

(b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii) of this section; and

(c) Any other information that the owner or operator wishes

to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection)."

(D) 40 CFR 52.21 (r)(7) The owner or operator of the source shall submit the information required to be documented and maintained pursuant to paragraphs 40 CFR 52.21 (r)(6)(iv) and (v) annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 CFR 70.4 (b)(3)(viii).

(E) 40 CFR 52.21 (y)(7) Procedures for designating emissions units as Clean Units. Ecology shall designate an emissions unit a Clean Unit only by issuing a regulatory order issued under the authority of WAC 173-400-091 or (when requested by the applicant as part of its NOC application) in an order of approval issued under WAC 173-400-110, including requirements for public notice of the proposed Clean Unit designation and opportunity for public comment and when WAC 173-400-091 is used to designate a Clean Unit, a demonstration that the ambient air quality impact limitations of WAC 173-400-113 (1) through (3) will be required. Such permit must also meet the requirements in paragraph 40 CFR 52.21 (y)(8).

(F) 40 CFR 52.21 (z)(5) Permit process for unlisted projects. Before an owner or operator may begin actual construction of a PCP project that is not listed in paragraphs 40 CFR 52.21 (b)(32)(i) through (vi), the project must be approved by ecology and included in an order of approval issued by ecology pursuant to the requirements in WAC 173-400-110, and/or WAC 173-400-091, following opportunity for public comment as provided for in those sections. When WAC 173-400-091 is used to approve a PCP, a demonstration that the ambient air quality impact limitations of WAC 173-400-112(2) and/or WAC 173-400-113 (1) through (3) will be required.

(G) 40 CFR 52.21 (z)(6)(iii) Permit requirements. The owner or operator must comply with any provisions in the order of approval or other order issued for the project related to use and approval of the PCP exclusion.

(H) 40 CFR 52.21 (aa)(2)(ix) PAL permit means the PSD permit, an ecology issued order of approval issued under WAC 173-400-110, or regulatory order issued under WAC 173-400-091 issued by ecology that establishes a PAL for a major stationary source.

(I) 40 CFR 52.21 (aa)(5) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC 173-400-171. A request to increase a PAL shall be processed in accordance with the application processing and public participation process in WAC 173-400-730 and 173-400-740.

(J) 40 CFR 52.21 (aa)(9)(i)(b) Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate.

(K) 40 CFR 52.21 (aa)(14) Reporting and notification

requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter 173-401 WAC. The reports shall meet the requirements in paragraphs 40 CFR 52.21 (aa)(14)(i) through (iii).

(L) 40 CFR 52.21 (aa)(14)(ii) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to WAC 173-401-615 (3)(b) and within the time limits prescribed shall satisfy this reporting requirement. The reports shall contain the information found at WAC 173-401-615(3).

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-720, filed 1/10/05, effective 2/10/05.]

WAC 173-400-730 Prevention of significant deterioration application processing procedures. (1) Application submittal.

(a) The applicant shall submit an application that provides complete information adequate for ecology to determine compliance with all PSD program requirements.

(b) The applicant shall submit complete copies of its PSD application or an application to increase a PAL, distributed in the following manner:

(i) Three copies to ecology: Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.

(ii) One copy to each of the following federal land managers:

(A) U.S. Department of the Interior - National Park Service; and

(B) U.S. Department of Agriculture - U.S. Forest Service.

(iii) One copy to the permitting authority with authority over the source under chapter 173-401 WAC.

(iv) One copy to EPA.

(c) Application submittal and processing for requests for a Clean Unit designation under 40 CFR 52.21(y), a pollution control project exemption under 40 CFR 52.21(z) or the initial request, renewal or expiration of a PAL under 40 CFR 52.21(aa) shall be done as provided in WAC 173-400-720 (4)(b)(iii).

(2) Application processing.

(a) Completeness determination.

(i) Within thirty days after receiving a PSD permit application, ecology shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Ecology may request additional information clarifying aspects of the application after it has been determined to be complete.

(ii) The effective date of the application is the date on which ecology notifies the applicant that the application is complete pursuant to (a)(i) of this subsection.

(iii) If an applicant fails or refuses to correct

deficiencies in the application, the permit may be denied and appropriate enforcement action taken.

(iv) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) Preparation and issuance of the preliminary determination.

(i) When the application has been determined to be complete, ecology shall begin developing the preliminary determination to approve or deny the application.

(ii) Within one year after receipt of a complete application, ecology shall provide the applicant with a preliminary determination along with a technical support document and a public notice.

(c) Issuance of the final determination.

(i) Ecology shall make no final decision until the public comment period has ended and all comments received during the public comment period have been considered.

(ii) As expeditiously as possible after the close of the public comment period, or hearing if one is held, ecology shall prepare and issue the final determination.

(d) The effective date of a final determination is one of the following dates:

(i) If no comments on the preliminary determination were received, the date of issuance; or

(ii) If comments were received, thirty days after receipt of the final determination; or

(iii) A later date as specified within the PSD permit approval.

(3) **PSD technical support document.** Ecology shall develop a technical support document for each preliminary PSD determination. The preliminary technical support document will be updated prior to issuance of the final determination to reflect changes to the final determination based on comments received. The technical support document shall include the following information:

(a) A brief description of the major stationary source, major modification, or activity subject to review;

(b) The physical location, ownership, products and processes involved in the major stationary source or major modification subject to review;

(c) The type and quantity of pollutants proposed to be emitted into the air;

(d) A brief summary of the BACT options considered and the reasons why the selected BACT level of control was selected;

(e) A brief summary of the basis for the permit approval conditions;

(f) A statement on whether the emissions will or will not cause a state and national ambient air quality standard to be exceeded;

(g) The degree of increment consumption expected to result from the source or modification;

(h) An analysis of the impacts on air quality related values in federal Class I areas and other Class I areas affected by the

project; and

(i) An analysis of the impacts of the proposed emissions on visibility in any federal Class I area following the requirements in WAC 173-400-117.

(4) **Appeals.** A PSD permit, any conditions contained in a PSD permit, or the denial of PSD permit may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. A PSD permit issued under the terms of a delegation agreement can be appealed to the EPA's environmental appeals board as provided in 40 CFR 124.13 and 40 CFR 124.19.

(5) **Construction time limitations.**

(a) Approval to construct or modify a major stationary source becomes invalid if construction is not commenced within eighteen months of the effective date of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The time period between construction of the approved phases of a phased construction project cannot be extended. Each phase must commence construction within eighteen months of the projected and approved commencement date.

(b) Ecology may extend the eighteen-month effective period of a PSD permit upon a satisfactory showing that an extension is justified. A request to extend the effective time to begin or complete actual construction under a PSD permit may be submitted. The request may result from the cessation of on-site construction before completion or failure to begin actual construction of the project(s) covered by the PSD permit.

(i) Request requirements.

(A) A written request for the extension, submitted by the PSD permit holder, as soon as possible prior to the expiration of the current PSD permit.

(B) An evaluation of BACT and an updated ambient impact, including an increment analysis, for all pollutants subject to the approval conditions in the PSD permit.

(ii) Duration of extensions.

(A) No single extension of time shall be longer than eighteen months.

(B) The cumulative time prior to beginning actual construction under the original PSD permit and all approved time extensions shall not exceed fifty-four months.

(iii) Issuance of an extension.

(A) Ecology may approve and issue an extension of the current PSD permit.

(B) The extension of approval shall reflect any revised BACT limitations based on the evaluation of BACT presented in the request for extension and other information available to ecology.

(C) The issuance of an extension is subject to the public involvement requirements in WAC 173-400-740.

(iv) For the extension of a PSD permit, ecology must prepare a technical support document consistent with WAC 173-400-730(3) only to the extent that those criteria apply to a request to extend the construction time limitation.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), §

WAC 173-400-740 PSD permitting public involvement requirements. (1) **Actions requiring notification of the public.** Ecology must provide public notice before approving or denying any of the following types of actions related to implementation of the PSD program contained in WAC 173-400-720:

(a) Any preliminary determination to approve or disapprove a PSD permit application; or

(b) An extension of the time to begin construction or suspend construction under a PSD permit; or

(c) A revision to a PSD permit, except an administrative amendment to an existing permit.

(2) **Notification of the public.** Within one year of the receipt of a complete PSD application, and as expeditiously as possible after receipt of a request for extension of the construction time limit under WAC 173-400-730(6) or for a nonadministrative revision to a PSD permit under WAC 173-400-750, ecology shall:

(a) Make available for public inspection in at least one location in the vicinity where the proposed source would be constructed, or for revisions to a PSD permit where the permittee exists, a copy of the information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality and air quality related values, considered in making the preliminary determination. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(b) Notify the public by:

(i) Causing to be published, in a newspaper of general circulation in the area of the proposed project, the public notice prepared in accordance with WAC 173-400-730(4). The date the public notice is published in the newspaper starts the required thirty-day comment period.

(ii) If ecology grants a request to extend the public comment period, the extension notice must also be published in a newspaper as noted above and a copy of the extension notice sent to the organizations and individuals listed in (c) and (d) of this subsection. The closing date of the extended comment period shall be as defined in the public comment period extension notification.

(iii) If a hearing is held, the public comment period must extend through the hearing date.

(iv) The applicant or other initiator of the action must pay the cost of providing public notice.

(c) Send a copy of the public notice to:

(i) Any Indian governing body whose lands may be affected by emissions from the project;

(ii) The chief executive of the city where the project is located;

(iii) The chief executive of the county where the project is located;

- (iv) Individuals or organizations that requested notification of the specific project proposal;
- (v) Other individuals who requested notification of PSD permits;
- (vi) Any state within 100 km of the proposed project.
- (d) Send a copy of the public notice, PSD preliminary determination, and the technical support document to:
 - (i) The applicant;
 - (ii) The affected federal land manager;
 - (iii) EPA Region 10;
 - (iv) The permitting authority with authority over the source under chapter 173-401 WAC;
 - (v) Individuals or organizations who request a copy; and
 - (vi) The location for public inspection of material required under (a) of this subsection.
- (3) **Public notice content.** The public notice shall contain at least the following information:
 - (a) The name and address of the applicant;
 - (b) The location of the proposed project;
 - (c) A brief description of the project proposal;
 - (d) The preliminary determination to approve or disapprove the application;
 - (e) How much increment is expected to be consumed by this project;
 - (f) The name, address, and telephone number of the person to contact for further information;
 - (g) A brief explanation of how to comment on the project;
 - (h) An explanation on how to request a public hearing;
 - (i) The location of the documents made available for public inspection;
 - (j) There is a thirty-day period from the date of publication of the notice for submitting written comment to ecology;
 - (k) A statement that a public hearing may be held if ecology determines within a thirty-day period that significant public interest exists;
 - (l) The length of the public comment period in the event of a public hearing;
 - (m) For projects subject to special protection requirements for federal Class I areas, in WAC 173-400-117, and where ecology disagrees with the analysis done by the federal land manager, ecology shall explain its decision in the public notice or state that an explanation of the decision appears in the technical support document for the proposed approval or denial.
- (4) **Public hearings.**
 - (a) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. A request must indicate the interest of the entity filing it and why a hearing is warranted. Whether a request for a hearing is filed or not, ecology may hold a public hearing if it determines significant public interest exists. Ecology will determine the location, date, and time of the public hearing.
 - (b) Notification of a public hearing will be accomplished

per the requirements of WAC 173-400-740(2).

(c) The public must be notified at least thirty days prior to the date of the hearing (or first of a series of hearings).

(5) **Consideration of public comments.** Ecology shall make no final decision on any application or action of any type described in subsection (1) of this section until the public comment period has ended and any comments received during the public comment period have been considered. Ecology shall make all public comments available for public inspection at the same locations where the preconstruction information on the proposed major source or major modification was made available.

(6) **Issuance of a final determination.**

(a) The final approval or disapproval determination shall include the following:

(i) A copy of the final PSD permit or the determination to deny the permit;

(ii) A summary of the comments received;

(iii) Ecology's response to those comments;

(iv) A description of what approval conditions changed from the preliminary determination; and

(v) A cover letter that includes an explanation of how the final determination may be appealed.

(b) Ecology shall mail a copy of the cover letter that accompanies the final determination to:

(i) Individuals or organizations that requested notification of the specific project proposal;

(ii) Other individuals who requested notification of PSD permits.

(c) A copy of the final determination shall be sent to:

(i) The applicant;

(ii) U.S. Department of the Interior - National Park Service;

(iii) U.S. Department of Agriculture - Forest Service;

(iv) EPA Region 10;

(v) The permitting authority with authority over the source under chapter 173-401 WAC;

(vi) Any person who commented on the preliminary determination; and

(vii) The location for public inspection of material required under subsection (2)(a) of this section.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-740, filed 1/10/05, effective 2/10/05.]

WAC 173-400-750 Revisions to PSD permits. (1) The owner or operator may request, at any time, a change in conditions of a PSD permit and ecology may approve the request provided ecology finds that:

(a) The change in conditions will not cause the source to exceed an emissions standard established by regulation;

(b) No ambient air quality standard or PSD increment will be exceeded as a result of the change;

(c) The change will not adversely impact the ability of

ecology or the authority to determine compliance with an emissions standard;

(d) The revised PSD permit will continue to require BACT, as defined at the time of the original PSD permit, for each new or modified emission unit approved by the original PSD permit; and

(e) The revised PSD permit continues to meet the requirements of WAC 173-400-112(2), and 173-400-113, as applicable.

(2) A request to revise a PSD permit must be acted upon using the timelines found in WAC 173-400-730. The fee schedule found in WAC 173-400-116 shall also apply.

(3) All revisions to PSD permits are subject to public involvement except for the following administrative revisions:

(a) Change of the owner or operator's business name and/or mailing address;

(b) Corrections to typographical errors;

(c) Revisions to compliance monitoring methods that do not reduce the permittee's or ecology's ability to determine compliance with the emission limitations; or

(d) Any other revision that does not reduce the stringency of the emission limitations in the PSD permit or the ability of ecology, the permitting authority, EPA, or the public to determine compliance with the approval conditions in the PSD permit.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-750, filed 1/10/05, effective 2/10/05.]